

New interpretation of HTS 9506 “Equipment.”

HTS heading 9506 covers articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof. As recent decision by CIT, known as the ‘*Bauer*’ case, *heading 9506* can encompass certain articles that previously were properly classified under chapters 61 or 62.

CBP has responded to this decision and clarified what can and cannot be classified under the heading 9506. Key to the reinterpretation is the meaning of the word, “equipment”. For the purposes of this heading, ‘Equipment’ should now be interpreted to mean articles specially designed and intended for use only while participating in the activities set forth in HTS 9506.

Sport-related articles as HTS 9506 “equipment”. CBP claims that for an article to fall under this heading, the article is specially designed and intended for use only while participating in the activities set forth in HTS 9506. One class of merchandise that the *Bauer* decision particularly affects is textile articles designed to be worn while participating in sports that incorporate thick non-textile protective guards or pads. When evaluating worn textile articles incorporating thick non-textile protective guards or pads, CBP states that it is necessary to determine if such articles are designed and intended for use ***only*** while participating in sports. CBP states that articles of this nature will be held to meet the HTS 9506 “equipment” criterion only if they incorporate thick non-textile protective guards or pads that are “designed exclusively for protection against injury, that is, having protective features with the sole or primary function of directly absorbing the impact of blows, collisions, or flying objects. Generally these non-textile protective guards will be non-removable or specially-fitted to be inserted into textile parts of the articles made of hard plastic or thick foam, and make the articles impractical to use as everyday wearing apparel. Articles with only textile or insubstantial non-textile padding will generally not meet this criterion.

Examples of articles classified as “equipment” under HTS 9506: fencing masks and breast plates, elbow and knee pads, cricket pads, shin-guards, hockey shorts or pants with thick non-textile protective guards or pads, football shoulder pads, chest protectors used by lacrosse and field hockey goalkeepers, and protective cups.

Examples of articles classified as “sports clothing” in Chapters 61 or 62: padded shorts for bicycling, hockey shorts or pants with no guards or pads, soccer goalkeeper jerseys, spandex shorts or tights, wetsuits, motorcross jackets and pants with insignificant padding, and textile athletic supporters.

Classification May be Decided on a Case-by-Case Basis

Importers are encouraged to use reasonable care in classifying their goods and encourages them to submit a binding ruling request.