

DUTY CLASSIFICATION
THROUGH THE HARMONIZED
TARIFF SYSTEM OF THE
UNITED STATES

ACKNOWLEDGMENTS

As M.E. Dey or any of its employees are not licensed to practice law. Opinion and information given herein cannot and should not be considered to be legal advice. We are Customs Brokers and Foreign Freight Forwarders. To this extent, we are very much concerned about the PRACTICAL effects that the Harmonized system may have on **importers and exporters**. These practical effects are tangible in several ways. Proper classification assures that the proper amount of duty is paid on your imported articles. In addition, classification will determine the involvement of other government agencies, possible application of special duties and the scope of any Customs examination.

Success in Exports starts with proper classification. In fact, lack of due diligence in classification for exported articles may mean large fines or worse, imprisonment.

What follows in the succeeding pages is a complete explanation of how the Harmonized system works and will lead you to a better understanding of this method of classifying goods.

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INTRODUCTION TO THE HARMONIZED TARIFF

FOUNDATION OF THE HARMONIZED SYSTEM (HS)

The HS replaced the Tariff System of the United States of America (TSUSA) on January 1, 1989. Before 1987, many countries and territories used the Customs Cooperation Council Nomenclature (CCCN), as a classification basis for their National tariffs. However, some countries, notably including the United States and Canada used different tariffs. A study group was established in the Customs Cooperation Council (CCC) to examine the possibility of preparing a new system of duty classification capable of meeting the principal requirements of Customs authorities, statisticians, carriers and producers.

This group deemed it to be essential for the long-term growth of international trade to develop a universal system of classification. With such a universal tariff system in place, the CCC was confident that the trade industry would see a reduction of some of the complicated preparation of customs documents, enhance electronic data processing, facilitate the analysis of trade data and assist in reducing the level of uncertainty in Trade negotiations. Every attempt would be made to make the system more logical in its application. A common tariff means that import or export, from any member country, an article will be classified the same.

HARMONIZED TARIFF STRUCTURE

Significant parts of the HS are grouped as follows:

GENERAL NOTES

SECTIONS AND CHAPTERS

LEGAL NOTED

HEADINGS AND SUBHEADINGS

HS DUTY CLASSIFICATIONS

GENERAL NOTES

You will find the General Notes in the beginning of the HS. Currently, there are twenty eight General Notes and five General Statistical Notes. These notes describe such features as the Customs territory of the United States, definitions of many terms used throughout the HS, descriptions of the various duty preference programs, statistical requirements and General Rules of Interpretation (GRI's). The GRI's give the user a step-by-step procedure in your classification efforts and are the basis for all classification matters. The general notes are legal instructions. They may not be ignored.

SECTIONS AND CHAPTERS

The HS is a classification system designed in a particular fashion. It is organized into twenty-two sections. Each section covers a broad range of product that tend to have similar characteristics. Articles of wood are usually classified within Section X, Footwear in Section XII, Plastic articles in Section VII.

Within these sections are ninety-eight chapters – numbered 1 through 99. In an odd quirk, there is no chapter 77. All of the chapters begin with crude, rough, or bulk commodities and generally end with manufactured or high value items. Twenty-one sections are International and apply throughout the world. In the United States HS, the last section, Section 22 contains certain classifications that can only be used in the United States.

Section 22 has the last two chapters of our HS. Chapter 98 covers such articles and types of import conditions as:

1. American goods returned (9801)
2. United States Merchandise assembled abroad (9802)
3. Temporary importations (9813)
4. Personal baggage (9804)
5. Military Departments (9808)
6. Articles for Religious Institutions (9810)
7. Samples (9811)
8. Certain unwrought Metals (9817)
9. Free trade (duty preference) provisions

Chapter 99 highlights:

1. Temporary legislation affecting duty rates
2. Punitive retaliatory tariffs
3. Safeguard Measures affecting agricultural products

Some Headings in Chapter 98 and most headings in Chapter 99 modify the admissibility or duty rate for articles usually classified under Chapters 1 – 97. Reference to Chapter 98 and/or 99 modifications are in the form of a footnote adjacent to the statistical requirement of the classification affected.

Each Section and Chapter has a title. These titles are only used for reference and do not include or exclude any article from classification within the sections or

chapters. Titles have no legal standing and are only to be used as guidance in trying to find a portion of the HS that may properly describe your article. In contrast, General Notes, General Rules of Interpretation, Legal Notes, Headings and Sub-headings, found in the HS do have Legal weight and cannot be ignored.

LEGAL NOTES

Legal Notes introduce you to almost all of the Sections and Chapters. They are the first pages of the Section and Chapter. These legal notes assist the user in describing what items may be included or excluded in the Section or Chapter you are using. Some Legal notes define important terms. Usually the first legal note describes what cannot be classified in the section or chapter.

HEADING AND SUB HEADING

Headings and Sub-Headings provide the descriptions of the various classifications. The headings are identifiable by the description adjacent to the 4-digit HS classification. Sub-headings comprise the 6-digit international code as well as the 8-digit and 10-digit classification numbers. There are approximately 1,250 4-digit headings, 3,800 6-digit subheadings, 8,500 8-digit tariff numbers and 10,000 10-digit statistical tariff numbers in the HS.

HS DUTY CLASSIFICATIONS

The core of the HS system involves the use of a six digit number is used to classify an article. For example, let us consider an everyday article - *Hinges*. Hinges would have a classification number of 8302.10. The essence of the HS is that these classifications number (*at least the first six digits*), will be identical in all countries who have adopted the HS as their tariff classification system.

The HS system is designed for use by exporters and importers. Classification for our *Hinges* should be the same in all of the subscribing countries for both imports

and exports. The HS is designed to allow for an expansion of this classification number for national purposes. Countries may want greater detail in tariff description for national concerns. The United States has expanded the six digit international classification number to further define the scope of the various classifications. The United States has chosen to implement a ten-digit classification number. Referring to our example above, the United States found that it was necessary to monitor the different kinds of *Hinges* imported and exported. This has been done by separately classifying the various types of *Hinges*. Let us look at one of these breakouts.

That is, let us consider *Hinges made for Motor Vehicles*. The Sub-heading of 8302.10.60 describes hinges of iron, steel, aluminum or zinc, other than hinges designed for motor vehicles. The U.S. has further refined the different types of *Hinges*.

Other classifications for Hinges found in the HS;

- 8302.10.6030 Suitable for Interior and Exterior doors.
- 8302.10.6060 Suitable for Furniture and Cabinets.
- 8302.10.6090 Other sorts of Hinges.

You can find these classifications in chapter 83 of the HS.

The ten digit HS# can be broken down as follows:

The first two digits of the classification number identifies the chapter in the HS that the particular classification can be found. The second two digits represent the sequential order of the heading within the chapter. These first four digits are the HEADING. Add the next two digits to complete the international classification – what is described as the SUBHEADING. Remember that classifying an article correctly with these first six digits establishes the classification of the article for any other country that uses the HS.

The balance of the HS classification number in the United States take into account the particular needs of duty and statistical requirements of our own country. The seventh and eighth digit establishes the U.S. Duty rate for the

specific classification. The next two digits of our classification number represent a statistical breakdown of the specific classification.

The following example will illuminate these breakdowns. Let us look at the classification for a Wheeled, Front-end Shovel Loader, and Rebuilt.

EXAMPLE Wheeled, Front-end Shovel Loaders, Rebuilt

8429.51.1065

		<i>Description</i>
84	Chapter number	'Machinery'
8429	Chapter & Heading	'Shovel Loaders, etc.'
8429.51	Chptr/Hdng & Sub-Hdng	'Front end Shovel Ldr'
8429.51.10	Shows US duty rate	'Wheel Type, Front end shovel Ldr'
8429.51.1065	Finally derives the statistical breakdown of the classification for a type of machinery described as Rebuilt Shovel loaders, Front-end types, with wheels.	

While the United States has adopted the HS as a basis for classification on Import documents and Export declarations, separate tariffs for imports and exports still exist. However, in both the introduction to the Schedule B and the General Statistical Note 5 of the HS, you will find that the HS may be used for completing the various Import documents and the Export declaration (see also the notice to exporters that follows General Note 5). The reverse though, is not acceptable. You may not use the Schedule B in your consideration of classification for imported goods. Remember that Chapters 98 and 99 of the HS cannot be used for Exported goods.

A quick review on export classification.

Certain types of exports must be classified with the appropriate Schedule B tariff number. These are: Exports of Articles previously imported for repairs or alterations and Instruments of International Traffic, Articles donated for relief or Charity and export of Military apparel and certain military equipment. You will find at the end of this manual a copy of the Schedule B classification numbers for articles described in Chapter 98 of the Schedule B.

A single page of the HS is enclosed. The page contains seven columns and a title. Each page of the HS is identified in the upper left-hand corner. This page, used as our example, is page 32 of the 84th chapter. This chapter is part of Section XVI (section sixteen).

The first column shows us the heading and subheading classification number and the rate line - duty rate. Column two gives the statistical classification that becomes part of the classification number in column 1. The third Column, labeled "Article Description" provides for the descriptive heading, subheadings and statistical breakdowns that are to be used in the consideration of your classification of a good or material.

The next column advises of the required statistical quantity, if any, that is required to be reported to the Department of Census. An explanation of the codes and abbreviations here can be found in General note 3(g). An "X" in this column indicates that no statistical quantity is required.

The last three columns are the columns that control the rate of duty to be assessed on the particular article. These columns relate to the IMPORTATION of cargo only and do not have an effect on the exportation of cargo from the United States. The column labeled "General" tells us the rate of duty for articles imported from countries that have been granted the privilege of Normal Trade

Relations (NTR). The General rate of duty is the most common duty rate used. Today, nearly all countries have been granted Normal Trade Relations. The next column labeled "Special", covers certain exceptions to the "General" duty rates. The amount or word just prior to the characters in parentheses shows us the rate of duty to be applied if your importation is excepted from the "General" duty rates. The special characters noted within the parentheses are defined in the General Notes in the front of the HS.

DUTY PREFERENCE

A, A* or A+ This special duty preference program applies to imported articles from certain countries designated by the United States as Beneficiary Developing Countries and as such have been granted duty free preference in the importation of certain articles into the United States. This system is called, “Generalized System of Preferences” (GSP). A list of countries that may qualify for such treatment is provided in General Note 4 of the HS. If the special character “A” is followed by an “*”, you must refer to the exception list that is also found in General Note 4(c). Articles with such a special character as “A*”, may not be duty free from a particular country that normally qualifies for duty free treatment when imported into the United States. Articles with an “A+” are granted duty preference if from countries designated as least developed beneficiary countries

Typically, duty preference programs are not available for imports from highly developed countries such as Japan, South Korea, Taiwan, Singapore, many European countries.

GSP duty preference is precluded for articles:

- Textiles and apparel articles,
- Watches
- Import sensitive electronic articles
- Imported sensitive steel articles
- Footwear, handbags, luggage flat goods work gloves leather and wearing apparel

Other duty preference programs under General Note 3(c)(i)

- B Automotive Products Trade Act. Goods imported from Canada that are to be used for the manufacture of motor vehicles.
- AU United States-Australian Free Trade Agreement
- C Agreement on Trade in Civil Aircraft. Goods imported for the use as parts for civil aircraft can be imported duty free, PROVIDED that such a declaration is made at time of entry is made to CBP.
- CA Goods that qualify for duty preference under the provisions of the North American Free Trade Act (NAFTA) and that originate in Canada
- CL United States –Chile Free Trade agreement
- D African Growth and Opportunity Act
- E or E* Caribbean Basin Economic Recovery Act (CBERA). Articles imported from certain Caribbean countries can be imported duty free.
- IL United States-Israel Free Trade Act
- J, J*¹ Andean Trade Preference Act
- or J+
- JO United States – Jordan Free Trade area Implementation Act
- K Agreement on Trade in Pharmaceutical Products
- L Uruguay round Concessions on Intermediate Chemicals and Dyes
- MA United States – Morocco Free Trade Agreement
- MX Goods that qualify for duty preference under the provisions of the North American Free Trade Act (NAFTA) and that originate in Mexico
- R United States-Caribbean Basin Trade Partnership Act
- SG United States-Singapore Free Trade Act

¹ * indicate that articles classified as such and imported from certain Caribbean countries may not be duty free. These exceptions also can be found in the General Notes of the HS.

More duty preference programs under General Note 3(a)

N West Bank, Gaza Strip or qualifying industrial zone

Y Insular possessions (owned of the United States but outside of the Custom territory of the United States – Customs territory of the United States is defined in General note 2 as the 50 states, District of Columbia and Puerto Rico)

Generally, articles that may be imported under the “special” rates of duty will need certification proving that the articles indeed are eligible. This requirement is not stated in the HS but rather is a part of the Customs regulations.

Please keep in mind that imported articles from a particular country may qualify for more than one duty preference program.

COLUMN 2 RATES OF DUTY

The last column shows us the duty rate to be used for imports from those countries in which the United States has not granted Normal Trade Relations. These countries are as follows:

Cuba North Korea

Depending on the country of origin of the imported article, varying regular rates may apply. For example, Connecting rods, classified under 8409.91.5010 have the following rates of duty.

From NTR Countries	2.5%
From Beneficiary Countries	FREE
From Argentina (exception to GSP)	2%
From countries not granted NTR	35%

These differences in duty rates might be considered in your cost analysis for the possible purchase of goods from a foreign vendor.

M.E. DEY & CO., INC.

HOW THE HARMONIZED SYSTEM IS ORGANIZED

We noted before that the chapters are arranged in order of complexity. That is articles enumerated in a specific chapter will generally have the less refined, crude articles listed first and then the more highly processed or manufactured articles listed second. Some of the Sections group articles from separate branches of Industry and Commerce. Many other chapters group articles according to their function or use.

SECTION TITLES TO THE HARMONIZED SYSTEM

SEC I	ANIMALS AND ANIMAL PRODUCTS
SEC II	VEGETABLE PRODUCTS
SEC III	ANIMAL AND VEGETABLE FATS
SEC IV	PREPARATIONS OF AGRI. PRODUCTS
SEC V	MINERAL PRODUCTS
SEC VI	CHEMICALS, EXPLOSIVES, PHOTOGRAPHIC GOODS
SEC VII	PLASTIC AND RUBBER GOODS
SEC VIII	HIDES, LEATHER AND ARTICLES THEREOF
SEC IX	WOOD, AND ARTICLES THEREOF
SEC X	WOOD PULP, PAPER AND ARTICLES THEREOF
SEC XI	TEXTILES AND ARTICLES THEREOF
SEC XII	FOOTWEAR, HEADGEAR, UMBRELLAS
SEC XIII	STONE & CEMENT, CERAMIC & GLASSWARE
SEC XIV	SEMI & PRECIOUS STONE, JEWELRY
SEC XV	BASE METAL AND ARTICLES THEREOF
SEC XVI	ELECTRICAL. MACHINERY, OTHER MACHINERY
SEC XVII	VEHICLES, AIRCRAFT, VESSELS
SEC XVIII	CLOCKS, HI TECH ARTICLES
SEC XIX	ARMS & AMMUNITION
SEC XX	TOYS, FURNITURE, LIGHTING & MISC. ARTICLES
SEC XXI	ART & ANTIQUES
SEC XXII	SPECIAL CLASSIFICATION FOR USA

Classification scope

The HS is hierarchical in nature. In order for an article to be classified under a given 10-digit classification number, it must be classifiable at the eight-digit subheading. Further, the articles must be classifiable at the 6-digit level and finally must be classifiable under the 4 digit heading. **A heading's scope cannot be expanded by a subheading.** Likewise a subheading cannot be expanded to cover more articles by the 10-digit U.S. classification.

EXAMPLE Let us take an example of a prefabricated building. Specifically, a ***Wood Framed Greenhouse for commercial use.***

If we look quickly, we see a provision under prefabricated buildings for Greenhouses: 9406.00.80102. It would appear that this is an easy classification. However, while this classification at its most specific covers Commercial greenhouses, the classification is under the superior sub-heading, Metal Prefabricated buildings. As we discussed, we cannot enlarge the scope or meaning of the 4, 6 or 8 digit classifications that preceded it. Thus 9406.00.80102 cannot be the proper classification. The proper classification for prefabricated buildings, MADE OF WOOD, is 9406.00.40003. Remember that the HS is Hierarchical; we cannot enlarge the scope of the provision of "Metal Greenhouses" to cover wooded greenhouses.

Let us review another example: A question on how to classify a Microwave oven for commercial use must be looked at closely. This article cannot be classified under 8516 as that heading call only for items of domestic use. The proper heading would be 8419, which calls for Microwave ovens for commercial use. To classify the article under heading 8516 would be to expand the classification beyond merely domestic articles to include commercial articles as well. This, of course, cannot be done.

Any classification cannot enlarge or expand the scope of any superior heading that precedes it. Think of the HS as a rather large outline. Where each Heading is broken down into smaller groups - all of which could be classified under the heading.

HOW TO FIND A TARIFF CLASSIFICATION

We have reviewed the general nature of the HS. We have discussed the structure of the information contained in the body of the HS, namely the tariff classifications. In order to get to a particular classification, there are certain criteria that must be followed. The HS has a classification for every conceivable article. But there are some exceptions. The HS has no classification for Corpses, Telecommunication transmissions, Records and Diagrams for Business, certain articles returned from Space, certain articles exported from the United States which are returned within 45 days, certain emergency aircraft parts. These are the only items that cannot be found in the HS. Even electricity has a specific classification in the HS (2716.00.0000).

Because the number of goods and materials that can enter the world of international trade are virtually limitless, a step by step procedure has been formulated to assist you in classifying such articles in the HS. This approach is applied through the use of seven fundamental rules. These rules are called the **General Rules of Interpretation** (GRI's). The GRI's are the primary basis for classification of articles in the HS.

The GRI's are comprised of six international rules of interpretation and one additional United States Rule. The six International rules have legal standing with all countries who have accepted the Harmonized System as their National tariff. The United States' rule has force only within the United States. In the

understanding of the proper classification in the HS, the GRI's is the definitive guide.

The first three rules are the most important and will be used to the exclusion of the other GRI's in probably more than 95% of the classifications you would be likely to encounter.

**GRI's 1 thru 4 MUST be applied in the order
in which they are presented.**

GRI #1 Simply stated, if the articles are specifically provided for in a heading or subheading, you should classify under that heading. Of course, you may do this only after careful consideration of the relative legal notes.

This GRI also reminds you that the Section and Chapter titles are for reference only and have no legal bearing. EXAMPLE: In the application of GRI #1; Household Microwave ovens are specially provided for under sub-heading 8516.50, Tomato Juice falls under heading 2009 and Crude Asbestos can be found under heading 2524. Let us review how the required considerations of the Legal Notes govern a classification. If we are considering how to classify plastic eye glass frames, we might be tempted to look no further than chapter 39 – "***Plastic and articles thereof***". However, Legal note 2(r) of Chapter 39 tells us that spectacle frames belong in chapter 90. More on the impact of Legal Notes later in this manual.

GRI #2(a) This first clause of GRI 2 makes it clear that headings and subheadings also include incomplete, unfinished or disassembled articles that have the essential character of the completed article.

Keep in mind that components of the incomplete article have to be presented for entry at the same time. Also that the unassembled articles can only be assembled by means of simple fixing procedures involving riveting, welding, and/or the use of screws, nuts, bolts, etc. EXAMPLE: Goods that are classified

by use of GRI #2(a): Knocked down metal filing cabinet for Household use (heading 9403), Weight lifting station, imported without the weights (heading 9506).

GRI #2(b) This rule tells us that if an articles is made up of different things such a mixture of chemicals or a bulletin board made of cork with a cardboard frame, or a retail set consisting of a hair clipper and a comb. One must consider all of the headings that could properly classify a part of the article. BUT we must go to GRI 3 to assist us in properly classifying these articles.

GRI #3 If goods appear to be classifiable under two or more headings (see GRI2(b)), three methods are provided to resolve this apparent dilemma. They are in order;

GRI 3(a) Use the heading that is the most specific. A classification by the name of the article is more specific than a classification by the class in which the article can be described. EXAMPLE: a Fork lift Truck fitted with handling equipment should not be classified under 8428.90 “ Other lifting Machinery” but rather 8427,” Fork-lift trucks”.

GRI 3(b) Consider the essential character of the material or good insofar as they are mixtures of different materials or compounds or articles imported as sets for retail sale. EXAMPLE: our previous example of a Cork Bulletin board with a cardboard frame would have the essential character of an article of cork, heading 4503. The example of a set consisting of a hair clipper and comb would have the essential character of a hair clipper and would fall under heading 8510.

GRI 3(c) When a good or material cannot be classified by use of GRI’s 1, 2(a), 2(b), 3(a) or 3(b); the user should refer to GRI 3(c). This rule tells you that if two or more headings seem to equally describe the article then you should use the heading which occurs latest in the HS. This rule can only take effect PROVIDED the terms of headings or Section or Chapter Notes do not guide you to a specific heading.

The balance of the GRI's apply only when the first three GRI's have failed to provide a proper classification for your articles or under certain very specific circumstance.

GRI #4 If an article cannot be classified by careful consideration of the first three GRI's, the article should be classified like those that they are most akin (alike). This GRI would be used only if a careful review of the first three GRI's do not help you classify an article. This GRI would be used rarely. EXAMPLE: A California cooler, consisting of a mixture of lemonade and wine (heading 2204).

GRI #5 The rule provides that cases, or containers imported with the article for which they were intended for are to be classified with such article. EXCEPTION: This rule does not apply to cases or containers that give the whole article are essential character. EXAMPLE: a Violin and its Case imported together would be classified under the sub-heading 9202.10. A Chainsaw with a Plastic Case made specifically for Chain saws would be classifiable under 8467.81. An article such as a Crystal jar containing candy could not be classified using the GRI. GRI 5 also considers cases or boxes used for packing and these should be classified again as a part of the article. EXCEPTION: This rule does not apply to containers or packing material that is clearly suitable for repetitive use.

GRI #6 For comparison purposes, subheadings at the same level are comparable and equal.

US INTERPRETIVE RULE #1 Applies only in the absence of specific provisions to the contrary.

1(a) Classification controlled by use other than actual use is to be determined by the use in the United States immediately after importation .

1(b) Classification controlled by actual use only if such use is intended at time of importation AND proof of such use is provided within three years after importation.

1(c) Classifications providing for parts of an article shall only cover products solely or principally used as parts unless the parts are specially provided for elsewhere in the HS.

1(d) The principals of section XI regarding mixtures of two or more textile materials shall apply to the classification of goods in any provision in which the textile is named.

Let us consider some examples of products, what GRI would be applied to arrive at the tariff classification and the heading in which you may find the goods classification.

	CHAPTER HEADING	SOURCE
Pliers	8203	GRI 1, provided for
An Aircraft, without engine	8802	GRI 2(a)
Fabric, 48% Cotton, 52% Wool	51	GRI 2b
Wine Cooler	2204	GRI 4
Smoking Pipe, w/tamper	9614	GRI 3(a&b) essential character
Wood Spice Rack w/plastic Jars	9403	GRI 3(a&b) essential character
Wood Spice Rack w/crystal Jars	7013	GRI 3(a&b) essential character
Hearing Aids	9021	GRI 1, provided for
Beer in Barrels designed for repetitive use	2203, 7612	GRI 1, (GRI 5)
Guitar w/Case	92	GRI 5

EXACT WORDING OF GENERAL RULES FOR THE INTERPRETATION OF THE HARMONIZED SYSTEM

Classification of goods in the Tariff Schedule shall be governed by the following principles:

GRI #1 The title of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classifications shall be determined according to the terms of the headings and any relative section or chapter Notes and, provided such headings or notes do not otherwise require, according to the following provisions:

GRI #2 (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to the article complete or finished (or falling to be classified as complete or finished by virtue of the Rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

GRI #3 When, by application of Rule 2(b) or for any other reason, goods are prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

GRI #4 Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.

GRI #5 In addition to the foregoing provision, the following Rules shall apply in respect of the goods referred to therein:

(a) Camera Cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles suitable for long-term use and entered with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. The Rule does not, however, apply to containers that give the whole its essential character.

(b) Subject to the provisions of Rule 5(a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.

GRI #6 For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, mutatis mutandis, to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of the rule the relative section and chapter notes also apply, unless the context otherwise requires.

ADDITIONAL U.S. RULES OF INTERPRETATION

1. In the absence of special language or context which otherwise requires:

(a) A tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use;

(b) A tariff classification controlled by the actual use to which the imported goods are put in the United States is satisfied only if such use is intended at the time of importation, the goods are so used and proof thereof is furnished within 3 years after the date the goods are entered;

(c) A provision for parts of an article covers products solely or principally used as a part of such articles but a provision for "parts" or "parts and accessories" shall not prevail over a specific provision for such part or accessory.

(d) The principles of Sections XI regarding mixtures of two or more textile materials shall apply to classification of goods in any provision in which a textile material is a named component.

LEGAL NOTES

The GRI's cannot be considered alone in your search for the proper classification of an article. Combined with your consideration of the GRI's, you must also consider the **LEGAL NOTES**.

Legal notes (LN) can be found at the beginning of the sections and chapters. Legal notes have the same legal standing as the GRI's. That is, they cannot be ignored and must be considered carefully before attempting to classify a good or material in the HS. Legal notes frequently state what is classifiable in the specific section or chapter. Sometimes the legal notes exclude certain articles from classification in the chapter or section even though it appears certain that the articles should indeed be classified there. Fortunately, if a legal note precludes a classification in a particular section or chapter, usually that same legal note will advise you what the proper heading might be.

EXAMPLE: Legal note 1(t) Chapter 95 states, "This chapter does not cover; ...Electric Garlands of all kinds...". However, this same legal note concludes by saying that you can find Electric Garland of all kinds under Heading 9405, which is in chapter 94.

Generally, the first legal note in a Section or Chapter gives you the EXCLUSIONS from that Section or Chapter. Usually the Section legal notes apply to all of the chapters in the section. However, sometimes they may only apply to specific chapters within the section. In some instances section legal notes may only apply to particular classification. Not all chapters have legal notes but if they do, they will frequently provide definitions of terms as well as inclusions or exclusions from the chapter of certain goods or materials.

EXAMPLE: Legal note number 2 in Chapter 87 defines the word Tractors as a "vehicle essentially for hauling or pushing another vehicle, appliance or load..."

The chapter legal notes, while they do have legal force, will normally apply only to the chapter that they are found. Certain legal notes affect the entire HS. Let us review these:

LEGAL NOTES APPLICABLE THROUGHOUT THE TARIFF

- Section (Sec) 1 Except where the context requires, "Dried" products also covers
Legal products which have been dehydrated, evaporated or free-dried ²
note (LN) 2
- Chapter 5 (Ch) Ivory is defined as tusks of Elephant, Walrus, Narwhal & Wild Boar.
LN 3 Rhinoceros horns and the teeth of all animals.
- Ch 5, LN 4 Horse hair, means hair of the manes or tails of equine or bovine
animals.
- Sec VI, US LN 2 Defines three chemical terms; Aromatic, Modified Aromatic and Alkyl.
- Ch 39 LN 1 Plastic, means those materials of headings 3901 to 3914 which are or
have been capable, either at the moment of polymerization or at some
subsequent stage, of being formed under external influence by
molding, castings, extruding, rolling or other process into shapes
which are retained on the removal of the external influence. The term
Plastics, also includes reference to vulcanized fiber; BUT does not
apply to materials regarded as textile materials of Section XI.
- Ch 40 LN 1 Rubber, means natural rubber, balata, gutta-percha guayule, chicle
and other similar natural gums, synthetic rubber, factice derived from
oils and such substances reclaimed – except that this description shall
not apply where the context of the tariff otherwise requires.
- Ch 41, LN 3 Composition Leather, means only substance of the kind referred to in
heading 4115
- Ch 43, LN 1 Furskins, other than raw furskins of heading 4301 apply to hides or
skins of all animals which have been tanned/dressed with the hair on.
- Ch 43 LN 5 Artificial Fur, means any imitation of furskin consisting of wool, hair or
other fibers gummed or sewn onto leather, woven fabric or other
materials but does not include imitation fur skins obtained by
weavings or knitting (generally; heading 5801 and 6001
- Ch 51, LN 1 Defines three terms: Wool, Fine Animal Hair and Coarse Animal Hair.
- Ch 54, LN 1 Man-made Fibers, means staple fibers and filaments of organic
polymers LN 1 produced by manufacturing processes, either: (A) as
polyamides, polyesters, polyurethanes or polyvinyl derivatives; or (B)

² Some of the Legal notes on these pages have been paraphrased. Refer to the actual HS text.

as articles made from organic polymers (e.g. cellulose, casein, proteins) to make viscose rayon, cellulose acetate, cupro or alginates. The terms Synthetic and Artificial used in relation to fibers mean the following; Synthetic is defined as (A) above and Artificial is defined as (B) above. The terms man-made, synthetic and artificial shall have the same meanings when used in relationship to textile materials.

- Ch 60, LN 3 Knitted goods includes stitch-bonded goods in which the chain stitches are formed of textile yarn.
- Ch 70, LN 5 Glass, includes fused quartz and other fused silica
- Ch 71, LN 7 Metal clad with precious metal, means material made with a base of metal upon one or more surfaces of which there is affixed by soldering, brazing, welding, hot-rolling or similar mechanical means a covering of precious metal. Except where the context otherwise requires, the expression also covers base metal inlaid with precious metal.
- Sec XV, LN 2 The expression "Parts of General Use" means:
(A) Articles of heading 7307, 7312, 7315, 7317, or 7318 and similar articles of other base metal.

(B) Springs and leaves for springs, of base metal, other than clock or watch springs (heading 9114).

(C) Articles of heading 8301, 8302, 8308, 8310 and frames and mirrors of base metal, of heading 8306. In Chapter 73-76 & 78-82 (but not heading 7315), reference to parts of goods do not include reference to parts of general use as defined above.

Subject to the proceeding, and to Chapter 83, LN 1, the articles of Chapter 82 & 83 are excluded from Chapter 72-76 & 78-81.
- Sec XV, LN 3 Base Metals, embraces aluminum, antimony, beryllium bismuth, cadmium, chromium, cobalt, copper, gallium, germanium, hafnium, indium, iron and steel, lead, magnesium, manganese, molybdenum, nickel, niobium (columbium), rhenium, tantalum, thallium, tin, titanium, tungsten, vanadium, zinc and zirconium
- Sec XV, LN 4 Cermets Products containing metallic and ceramic components
U including sintered metals (metal carbides sintered with a metal)

DEFINITIONS:

ACCESSORIES (1) They may facilitate use of handling; or, (2) They may widen the range of uses of the main article; or (3) They may improve the operation of the main article; (4) They are not needed to enable the goods, with which they are identifiable as being intended solely principally for use with a specific article.

Examples may be found under headings 6117, 9209, 9305, 9025

ACTUAL USE A tariff classification controlled by the actual use to which the imported goods are put in the United States is satisfied only if such use is intended at the time of importation, the goods are so used, and proof thereof is furnished within three years after the goods are entered.

ANORAK A hooded pullover jacket made of either weather resistant material or fur.

BLANKS An article not ready for direct use having the approximate shape or outline of the finished article or part and which only can be used for completion into the finished article or part.

CERMET A strong alloy of a heat resistance Compound.

CHAPTER TITLES Have no legal weight at all. They do not include or exclude any article from being classified in a particular chapter. The title of the chapter is merely to give you a guide.

CHIEF VALUE This term is not commonly used in the Harmonized System. However, Chief Value may be a factor in determining Essential Character.

CIVIL AIRCRAFT PARTS They are not specified by special tariff numbers but

are indicated by a “C” next to the eligible tariff number. The “C” designation can be found in Special column of the HS. See General Note 3(c) (iv).

COMPOSITE UNIT A composite unit is defined as two or more machines fitted together to form a whole for the purposes of performing two or more complementary or alternative functions. They must be incorporated as one machine in the other, mounted on a common base, or housing. Refer to Sec XV, LN 7 and CH 84, LN 3.

Example: Combination clock radio/phone machine
Mobile generator also equipped with lights

DE MINIMUS Means, of the smallest.

DOMESTIC Refers to an article that normally is used in the Home.

ENTERED Means, entered, or withdrawn from warehouse, for consumption, i.e. Articles are Customs cleared.

ENTRY This word describes the entry documents filed with U.S. Customs to obtain their release of the imported cargo before estimated duties are paid. This is generally the quicker of two methods in which Customs release is obtained.

ENTRY SUMMARY Describes the formal entry summary package that is tendered to Customs subsequent to release of the freight. Included with the Entry Summary is a copy of the Entry, commercial invoice, packing list, and other documents required by Customs or interested governmental agencies, Importers check for the estimated duties and user fees that are due, and proof of bond. On import cargo that cannot be released by Customs through the Entry process, the Entry Summary would be both the document to obtain release of the import cargo and the document package tendered to Customs with the duty payment

(also called “Live entry”).

EO NOMINE Means, by that name.

ESSENTIAL CHARACTER Can be described as the nature of an article that has more than one material or component. Characteristics that may be considered are its bulk, quality, quantity, weight, value or perhaps its role in relation to the use of the goods. No legal definition exists within the HS.

ENSEMBLE Consists of one upper garment, and 2 lower garments. See Chapter 61, LN 3(b).

EXPLANATORY NOTES The contents of the Explanatory notes provide descriptive definitions and other assists in understanding the meanings of heading and sub headings.

FALLING For reference, see GRI 2- Falling means, considered.

FUNCTIONAL UNIT CONCEPT Chapter 84, LN 4 - A Functional unit is; (1) A Machine or combination of machines, (2) consisting of individual components either separate or interconnected by; piping, transmission devices, electrical cables or other devices, (3) Contributing a clearly defined function and described in chapters 84, 85 or 90. Only those machines that are essential to the function of the Unit can be considered part of a Functional unit.

Example: Complete assembly line

Phone system

GRI An abbreviation for General Rules of Interpretation.

GENERAL NOTES An introduction to the HS. Topics covered in these general notes are, Customs territory of the United States, Special duty provisions, certain

definitions, etc.

GENERAL STATISTICAL NOTES Also found in the beginning of the HS. These notes cover Statistical requirements for Customs purposes and the proper completion of the Export Declaration.

GENERAL RULES OF INTERPRETATION These rules are contained in the General Notes in the Beginning of the HS. These rules and the proper application of them, govern the method by which classification of goods or material must be made.

HEADINGS This is the first four digits of the Tariff number. It is an international number that applies to like articles imported or exported between any country that subscribed to the Harmonized System. See also sub-headings.

HS Abbreviation for Harmonized System.

INTER ALIA Means, among other things.

IN PART OF Goods or materials contain a significant quantity of the named material.

LEGAL NOTES Abbreviation can be **LN** or simply **N**. Legal notes at the beginning of each Section and Chapter that have legal authority in classification.

Legal Notes:

- (1) Define limits of a heading or subheading,
- (2) Provides list of goods excluded from the section chapters, heading or subheading,
- (3) Provides list of goods included in a particular section, chapter heading or subheading. Legal notes have the same legal weight as headings or subheadings. The legal notes have international status.

MEDICAMENTS Medicines, Drugs

MUTADIS MUTANDIS Means, the appropriate changes having been made.

NESI Abbreviation for Not Elsewhere Specified or Included.

PARTS

- (1) If it cannot be used on its own; ***or***
- (2) if it must be combined with other articles to be used; ***or***
- (3) if it is an integral, constituent, or component part with out which the articles to which it is joined count not function; ***or***
- (4) it lends to the safe and efficient operation of the articles ***and***
- (5) it is identifiable by shape or other characteristics as being an article solely or principally used as a part.

Examples, 8424.90, 8539.90, 9025, 9021.90

Pay particular attention to Note 2 Sec XVI. Chapter 84, LN 1 and Chapter 85, LN 1.

PARTS OF GENERAL USE Articles that can be classified under headings 7307, 7312, 7315, 7317, 7318 and similar articles. Also, springs and leaves for springs (other than clock or watch springs). Also, articles under headings 8301, 8302, 8308, 8310 plus frames and mirrors of heading 8306 (Sec XV, LN 2). Reference to Parts in CH 73-76 & 78-82, except 7315 do not include reference to parts of General Use. Subject to the proceeding, CH 83, LN 1, the articles of CH 82 or 83 are excluded from CH 72-76 & 78-81.

PLAITING A word describing items that are braided or pleated.

PRIMA FACIA Means, of first appearance.

PRINCIPLE USE Classification controlled by use (other than actual use) is determined by the use in the United States at the time of importation. For goods

of that class or kind to which the imported goods belong, and the controlling use is the principle use.

SETS There are three requirements for a set. All 3 requirements must be met.

- (1) Must consist of at least two different articles which are classifiable in different headings
- (2) Must consist of articles put up together to meet a particular need or carry out a specific activity
- (3) Must be put up in a manner suitable for retail sale.

Some sets that are provided for:

3006.50	First Aid Kits	6103	Men's Suits
6104	Women's Suits	6112	Track Suits/ Ski Suits
6308	Needlecraft	8206	Hand Tool Sets
8214	Manicure and Pedicure Sets	8484	Gasket Sets
9605	Various Travel Sets		

SIMPLE ASSEMBLY Simple fixing devices - nuts, bolts, screws, etc. and to include riveting, welding. Not a manufacturing process.

SUBHEADINGS The six, eight or ten-digit classification number. The eight-digit subheading shows us the duty rate for articles classified herein or immediately following. The ten-digit subheading indicates the statistical classification.

SUITS Wearing apparel consisting generally of one upper garment and one lower garment. See Chapter 61 LN 3(a).

WHOLLY OF The goods are composed completely of a names material except for insignificant quantities of some other material.

The HS classification system has developed a whole new set of determinants to proper classification. Throughout the HS, statistical quantities (with the single exception of proof gallons) are to be stated in their metric equivalents. A table of metric conversion follows.

UNITED STATES TO METRIC EQUIVALENT

You have	Multiply by	To get
INCHES	2.54	CENTIMETERS
INCHES	25.4	MILLIMETERS
SQUARE INCHES	6.4516	SQ. CENTIMETER
SQUARE INCHES	645.16	SQ. MILLIMETER
FEET	0.3048	METER
YARD	0.9144	METER
SQ. FEET	0.0929	SQ. METER
SQ. YARDS	0.83613	SQ. METERS
OUNCE (avdp)	28.3495	GRAMS
POUNDS	0.45359	KILOGRAMS
LONG TON	1.016	METRIC TON
SHORT TON	0.90718	METRIC TON
FLUID OUNCES	29.573	MILLILITERS
QUARTS	0.94635	LITERS
GALLONS	3.7854	LITERS
BUSHELS	35.239	LITERS
CUBIC FEET	0.02832	CUBIC METERS
CUBIC YARDS	0.76455	CUBIC METERS
OUNCES/SQ YARD	33.91	GRAMS/SQ YARD

HINTS AND ASSISTS

Classifications of NESI or 'other, other' are used sparingly. The HS design precludes all but the occasional use of such a provision.

A proof of correct classification starts by considering if the *superior headings* of the classification describe the article. A proper classification must pass this test.

It is uncommon to use 'Chief Value' as a determinant of classification. A new criterion, 'Chief Weight', is an important criterion of classification of materials made up of more than one substance, blended fabrics, chemical mixtures etc. (See Sec XI, LN 2(a)). Chief value may have some determination in classifying articles in which the essential character is an important criterion. 'USE' as a tool for classification has an important distinction. Principle USE is a significant determination. Chief USE does not have any meaning in the HS. Chief use implies the majority use whereas Principle use implies the most common use does not have to be majority use.

Parts and Accessories. See definitions BUT in general, a part is a part if it cannot be used on its own but must be combined with other articles to form goods capable of fulfilling an intended function. Accessories are those articles that are not needed or required in order to operate the item that the accessories are for. A review of U.S. Rule 1(c) is important in considering a classification for parts or accessories. Classification of Parts and Accessories in the HS can be done several different ways:

1. Classified under its own heading. This is, the article is specifically described, e.g. Pumps.
2. Classified with the article if the heading for the article allows this.
3. Classified in specific heading for Parts and Accessories.

Babies Garments covers article meant for babies not more than 86cm in length.

Domestic versus Commercial: For the purposes of classification, *Domestic*

refers to articles intended for household use. Compare chapter 85 and chapter 84. Parts of chapter 85 refer to articles that are meant for household or domestic use. These same articles are described in chapter 84 but are for *Commercial* use.

Certain articles intended for agricultural use can still be entered duty free under the heading 9817. A careful review of the related chapter note is imperative as not all items can be classified under such a heading.

Footwear and parts of footwear generally all can be found in chapter 64, regardless of the material used in making the part.

Legal Notes that exclude certain articles from a chapter or section may generally refer you to another heading elsewhere in the HS. Many times, this new heading will be more specific to the article that you are trying to classify.

ASSISTANCE AND IMPORTER RIGHTS

Explanatory notes. This is a four volume set of books totaling more than 2700 pages of information. These explanatory notes cover each heading and give the reader some insight into the articles that are meant to be classified under such headings. In some cases there are even drawings of articles to give the reader a visual understanding of certain terms. While the Explanatory notes do not have legal weight in your consideration, it is presumed that Customs, in their deliberation on the appropriateness of a certain classification, will be guided by these Explanatory notes.

Alphabetical index. This is a detailed list of names of articles and materials and where they may be found in the HS. As numerous items could be classified under different headings, The Index will offer some of these alternatives for your review.

Dispute settlement... Not happy with the classification? Don't fret; your current rights under protest and appeal have been preserved. There is no change here. If you have an argument with Customs your avenues of dispute resolution are still available.

CONCLUSION

This manual is to be used as a guide for your use of the HS. It is also meant as a reference material. We have made a special effort to highlight concepts that you will use or need to know to use this essential tool of International Trade. As you become familiar with the HS, it is our opinion that this manual will still assist you in the quick access to vital criteria of the HS.

Harmonized Tariff Schedule of the United States (2006)
Annotated for Statistical Reporting Purposes

XX
94-11

Heading/ Subheading	Stat Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
9406.00		Prefabricated buildings:				
9406.00.40	00	Of wood	No. kg	2.6%	Free (A,AU,CA, CL,E,IL,J,JO, MA,MX,SG)	33 1/3%
9406.00.80		Other		2.9%	Free (A,AU,CA, CL,E,IL,J,JO, MA,MX,SG)	45%
		Of metal:				
		Greenhouses:				
	10	Commercial	No. m ²			
	20	Other	No. m ²			
	30	Other	No. m ²			
		Other:				
	50	Animal sheds of plastic	No. kg			
	90	Other	No. kg			

Harmonized Tariff Schedule of the United States (2006)

Annotated for Statistical Reporting Purposes

XVI
85-23

Heading/ Subheading	Stat Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
8516		Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof:				
8516.10.00		Electric instantaneous or storage water heaters and immersion heaters	No.	Free		35%
	40	Storage water heaters	No.			
	80	Other water heaters and immersion heaters	No.			
		Electric space heating apparatus and electric soil heating apparatus:				
8516.21.00	00	Storage heating radiators	No.	Free		35%
8516.29.00		Other		3.7%	Free (A,AU,B,CA,CL,E,IL,J,JO,MA,MX,SG)	35%
		Portable space heaters:				
	30	Fan-forced	No.			
	60	Other	No.			
	90	Other	X			
8516.31.00	00	Electrothermic hairdressing or hand-drying apparatus: Hair dryers	No.	3.9%	Free (A,AU,CA,CL,E,IL,J,JO,MA,MX,SG)	35%
8516.32.00		Other hairdressing apparatus		3.9%	Free (A,AU,CA,CL,E,IL,J,JO,MA,MX,SG)	35%
	20	Curlers	No.			
	40	Other	X			
8516.33.00	00	Hand-drying apparatus	No.	Free		35%
8516.40		Electric flatirons:				
8516.40.20	00	Travel type	No.	Free		35%
8516.40.40	00	Other	No.	2.8%	Free (A,AU,CA,CL,E,IL,J,JO,MA,MX,SG)	40%
8516.50.00		Microwave ovens		2%	Free (A,AU,CA,CL,E,IL,J,JO,MA,MX,SG)	35%
	30	Having a capacity not exceeding 22.5 liters	No.			
	60	Having a capacity exceeding 22.5 liters but not exceeding 31.0 liters	No.			
	90	Having a capacity exceeding 31.0 liters	No.			
8516.60		Other ovens; cooking stoves, ranges, cooking plates, boiling rings, grillers and roasters:				
8516.60.40		Cooking stoves, ranges and ovens		Free		35%
	60	Microwave oven combinations	No.			
		Other:				
	70	Portable	No.			
	80	Other	No.			
8516.60.60	00	Other	No.	2.7%	Free (A,AU,CA,CL,E,IL,J,JO,MA,MX,SG)	40%

Harmonized Tariff Schedule of the United States (2006)

Annotated for Statistical Reporting Purposes

XVI
84-32

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
8428		Other lifting, handling, loading or unloading machinery (for example, elevators, escalators, conveyors, teleferics):				
8428.10.00	00	Passenger or freight elevators other than continuous action; skip hoists	No.	Free		35%
8428.20.00		Pneumatic elevators and conveyors		Free		35%
	10	Conveyors	No.			
	50	Elevators	No.			
		Other continuous-action elevators and conveyors, for goods or materials:				
8428.31.00	00	Specially designed for underground use	No.	Free		35%
8428.32.00	00	Other, bucket type	No.	Free		35%
8428.33.00	00	Other, belt type	No.	Free		35%
8428.39.00	00	Other	No.	Free		35%
8428.40.00	00	Escalators and moving walkways	No.	Free		35%
8428.50.00	00	Mine wagon pushers, locomotive or wagon tracers, wagon tippers and similar railway wagon handling equipment	No.	Free		35%
8428.60.00	00	Teleferics, chair lifts, ski draglines; traction mechanisms for funiculars	No.	Free		35%
8428.90.00		Other machinery		Free		35%
	02	Of a kind used in charging or discharging furnaces	No.			
	04	Of a kind used for radioactive materials	No.			
	06	Woodland log handling equipment (other than skidders)	No.			
		Other:				
	10	Industrial robots	No.			
	20	Oil and gas field machinery	No.			
	30	Sidebooms and pipehandlers	No.			
	40	Loaders, underground mine type	No.			
	90	Other	No.			