

KITS, FASTENER REPAIR

CUSTOMS AND BORDER PROTECTION BINDING RULING HQ 563322

October 26, 2005 Abridged:

FACTS:

The fastener repair kits that include a varying number of steel wire inserts, installation tools, and recoil STI taps.

INSERTS: The wire inserts are used in the repair of stripped or damaged internal threads. They are also used to create a stronger thread assembly in original equipment, especially in lighter alloys. The inserts are made of stainless steel and are helically wound, appearing as wound wire coils. Typically, the inserts are wound by means of a special tool (such as threaded mandrel or collar-type tool) into a specially tapped hole, which is smaller than the outside diameter of the insert. The wire insert is elongated during the installation process and its outside diameter is compressed so that it anchors into the parent material. A fastener, such as a screw, is inserted into the hole. The wire insert serves to secure the screw more tightly and to prevent its thread from stripping. The value of the inserts relative to the total value of the kits ranges from 1.7% to 12%. The inserts are stated to be classified under 7318.29 of the HS.

INSTALLATION TOOL: The tool is used to install the wire inserts. The tool is manufactured from low carbon steel and generally, will work for multiple thread forms and sizes. The value of the tools relative to the total value of the kits range from 6.8% to 40.3%. The tools are stated to be classified under 8205.59.5560,.

TAP: The taps are special taps used to prepare holes for the installation of steel wire inserts. The recoil screw thread insert (STI) taps are manufactured from high speed steel. Their value relative to the total value of the kits ranges from 19.6% to 55.5%. The taps are stated to be classified under 8207.40.3000.

ISSUES: What is the proper tariff classification of the fastener repair kits

LAW AND ANALYSIS: Note that the components which permit the kits to perform their function fall into three different headings of the HS. For purposes of classification, ignore the packaging. There is no specific heading that refers to all the components of the kits. Since each of the headings refer to only a part of the article, reference is made to GRI 3 which, pursuant to GRI 2, provides that goods classifiable under two or more headings shall be classified according to the provisions of GRI 3. Although GRI 3(a) provides that the heading with the most specific description shall be preferred to other headings, when two or more headings refer to only a part of the materials or substances contained in mixed or composite goods, the headings are to be considered as equally specific. We find that to be the case with this article so it could not be classified under GRI 3(a). Next, reference is made to GRI 3(b) which covers 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 GRI 3(a). GRI 3(b) states that such groupings are to be classified as if they consisted of the material or component that gives them their essential character. Explanatory Note (EN) Rule 3(b)(VII) lists as factors to help determine the essential character of such goods the nature of the materials or components, their bulk, quantity, weight or value, and the role of the constituent materials or components in relation to the use of the good. In this case, counsel argues that the steel inserts give the kits their essential character. Counsel contends that the reason a consumer would purchase the kit is for the steel wire inserts that will be used to strengthen and maintain a fastener hole. Counsel contends that although the inserts do not predominate in bulk, weight or value, they perform the kit's indispensable function of repairing fastener holes and predominate in total quantity. Counsel cites to Headquarters Ruling Letter HQ 962307, and a line of rulings involving pumpkin carving kits which includes HRL 966981 and HRL 962307 involved an imported setting tool packaged with 100 anchors. Customs noted that recent cases have looked primarily to the role of the constituent materials or components in relation to the use of the goods to determine essential character. Customs concluded in that case that the drop-in anchors performed the "indispensable function" and therefore, imparted the essential character of the set. The anchors in HRL 962307 were solid pieces with an internally threaded chamber. They could be set without the tool provided, although not as easily. The tool was offered more as a marketing incentive to purchase that set of anchors rather than anchors without a tool. In HRL 966981, the knife was determined to be indispensable to the pumpkin carving set because the knife alone could be used to carry out the purpose of the kit, carving a design into a pumpkin. However, in this case, the inserts cannot be set without the assistance of the tools although inserts are sold independently of the tools. The taps are needed to prepare the hole in which the inserts will be used. Based on the above, Customs concludes that in this case, the kits have no essential character. The tool, taps and inserts are equally important. Hence, they merit equal consideration. Therefore, reference is made to GRI 3(c). GRI 3(c) provides that if the set cannot be classified pursuant to GRI 3(a) or (b), it will be classified in the heading that occurs last in numerical order among those that merit equal consideration. Accordingly, in this case, the kit would be classified in subheading 8207.40, HS

HOLDING: The imported fastener repair kits described above are classified in subheading 8207.40.30 pursuant to GRI 3(c).