

*What Every Member of the
Trade Community Should Know About:*
Tariff Classification



AN INFORMED COMPLIANCE PUBLICATION

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U.S. CUSTOMS and BORDER PROTECTION

NOTICE:

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “informed compliance” and “shared responsibility,” which are premised on the idea that in order to maximize voluntary compliance with the laws and regulations of U.S. Customs and Border Protection (CBP), the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on the CBP to provide the public with improved information concerning the trade community’s rights and responsibilities under customs regulations and related laws. In addition, both the trade community and the CBP share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable the CBP to assess duties properly, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. The CBP is then responsible for fixing the final classification and value of the merchandise. The failure of an importer of record to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings has been given a major role in meeting the informed compliance responsibilities of the CBP. In order to provide information to the public, the CBP has issued a series of informed compliance publications and videos on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

The Office of Regulations has prepared this publication on the tariff classification of merchandise. It covers the tariff classification of merchandise under the Harmonized Commodity Description and Coding System and under the Harmonized Tariff Schedule of the United States. We sincerely hope that this material, together with seminars and increased access to administrative rulings of the CBP, will help the trade community to improve voluntary compliance with customs regulations and laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. As many complicated factors can be involved in customs issues, an importer may wish to obtain an advance or pre-importation ruling under the CBP regulations (19 CFR Part 177) or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

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| | |
|--|-----------|
| GENERAL BACKGROUND | 8 |
| HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM (HARMONIZED SYSTEM) | 9 |
| HISTORY AND DEVELOPMENT..... | 9 |
| HARMONIZED SYSTEM STRUCTURE..... | 10 |
| HARMONIZED SYSTEM CONVENTION OBLIGATIONS | 10 |
| LEGAL TEXT OF THE HARMONIZED SYSTEM | 11 |
| HEADING AND SUBHEADING PROVISIONS..... | 11 |
| RATES OF DUTY..... | 13 |
| INTERPRETATION OF THE HARMONIZED SYSTEM | 13 |
| General Rules of Interpretation | 13 |
| General Rule of Interpretation No. 1 | 14 |
| General Rule of Interpretation No. 2 | 14 |
| General Rule of Interpretation No. 3 | 17 |
| General Rule of Interpretation No. 4 | 20 |
| General Rule of Interpretation No. 5 | 21 |
| General Rule of Interpretation No. 6 | 22 |
| Extrinsic Interpretative Aids | 24 |
| (1) Explanatory Notes | 24 |
| (2) Compendium of Classification Opinions | 26 |
| Availability of the Explanatory Notes & the Compendium of Classification Opinions | 26 |
| AMENDMENT AND MAINTENANCE PROCEDURES AND DISPUTE SETTLEMENT | 26 |
| Amendment and Maintenance Procedures | 26 |
| Harmonized System Committee | 26 |
| Harmonized System Review Subcommittee | 27 |
| Scientific Subcommittee..... | 28 |
| Secretariat and Nomenclature & Classification Sub-Directorate | 28 |
| Dispute Settlement | 29 |
| LIST OF COUNTRIES, TERRITORIES AND CUSTOMS OR ECONOMIC UNIONS USING THE HARMONIZED SYSTEM | 30 |
| HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES (HTSUS) | 32 |
| HTSUS STRUCTURE | 32 |
| INTERPRETATION OF THE HTSUS | 35 |
| RATES OF DUTY | 36 |
| MAINTENANCE OF THE HTSUS | 36 |
| AVAILABILITY OF THE HTSUS IN PAPERBACK AND CD-ROM..... | 36 |
| AVAILABILITY OF THE HTSUS ON THE INTERNET | 37 |
| AVAILABILITY OF CLASSIFICATION RULINGS ISSUED BY THE CBP | 37 |
| PRE-IMPORTATION (ADVANCE) CLASSIFICATION RULINGS | 37 |
| FOIA AND INFORMATION SUBMITTED FOR A RULING REQUEST..... | 38 |
| ADMINISTRATIVE REVIEW OF PRE-IMPORTATION RULINGS | 39 |
| POST-IMPORTATION REVIEW PROCEDURES | 39 |
| ADDITIONAL INFORMATION..... | 40 |
| THE INTERNET | 40 |

| | |
|--|----|
| CUSTOMS REGULATIONS | 40 |
| CUSTOMS BULLETIN | 40 |
| IMPORTING INTO THE UNITED STATES | 41 |
| INFORMED COMPLIANCE PUBLICATIONS | 41 |
| VALUE PUBLICATIONS..... | 42 |
| "YOUR COMMENTS ARE IMPORTANT" | 43 |

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TARIFF CLASSIFICATION

GENERAL BACKGROUND

When goods are imported into the customs territory of the United States (the fifty states, the District of Columbia and Puerto Rico), they are subject to certain formalities involving the U.S. Bureau of Customs and Border Protection (“CBP”) of the U.S. Department of Homeland Security. In almost all cases, the goods are required to be “entered,” that is, declared to the CBP, and are subject to detention and examination by CBP officers to insure compliance with all laws and regulations enforced and administered by the CBP. The required entry process may take the form of a simple “baggage declaration” (for individuals), or one of the many types of customs “entries,” for consumption, warehousing, or transit. Low value importations may be subject to simplified or informal customs clearance procedures. For example, certain low value mail importations may be declared on a sticker obtainable at post offices whereas importations by individuals that do not exceed their duty free personal exemptions may often be made by an oral declaration to a CBP officer. On the other hand, in most cases involving commercial goods, and some involving non-commercial importations, the importer or his agent must “enter” the goods by filing an electronic or paper “entry” to obtain release of the goods followed by an electronic or paper “entry summary.” As part of the entry process, goods must be “classified” in the Harmonized Tariff Schedule of the United States (“HTSUS”) and their customs value must be determined.

Prior to enactment into law of the Customs Modernization Act (Title VI of the North American Free Trade Agreement Implementation Act, Public Law 103-182), on December 8, 1993, an importer was required to describe accurately the merchandise and tell CBP how much it cost. It was the CBP’s responsibility to “classify” the goods and determine their “value” (appraise them to allow the correct duty to be applied).

Pursuant to the Customs Modernization Act, it is now the responsibility of the importer of record to use “reasonable care” to “enter,” “classify” and “value” the goods and provide any other information necessary to enable the CBP to assess the correct duties, collect accurate statistics, and determine whether all other applicable legal requirements are met. Classifying goods is important not only for duty purposes, but also to determine whether the goods are subject to quotas, restraints, embargoes or other restrictions. The act of classifying goods requires an importer to be familiar with the HTSUS (and the instrument upon which it is based, the international Harmonized Commodity Description and Coding System). To assist in meeting the reasonable care requirement, importers may request binding administrative rulings from the CBP, or may use the services of an expert in customs law and procedures to assist them. The CBP is responsible for fixing the final classification and valuation of the goods. The CBP performs this in a process called “liquidation of the entry.” This publication explains the classification of goods under the HTSUS. Customs valuation requirements are separately discussed in an informed compliance publication entitled “*What Every*

Member of the Trade Community Should Know About: Customs Value,” which is available from the CBP website: <www.cbp.gov>.

The classification and valuation of goods is an important part of the importation and entry process. At a minimum, incorrect classification or valuation may lead to delays and increased duties (plus interest). The failure to use reasonable care in either situation may also lead to detention or seizure of the merchandise, and the imposition of civil or criminal penalties.

HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM (HARMONIZED SYSTEM)

History and Development

Merchandise imported into a country is classified under a tariff system for such purposes as tariff (or duty) assessment and import restrictions. The movement of merchandise in international trade, however, would be very slow and costly if the merchandise had to be classified under differing tariff systems of various countries. Therefore, in the late 1960s, the major trading countries of the world decided that a modern and internationally recognized product or tariff classification system was needed in order to facilitate the international trade of merchandise. This new system was intended to be a single modern structure for product classification that would also be used for customs tariff-related statistical and transport-documentation purposes (i.e., to collect statistics on trade and for exportation purposes). Work on this new system began in the early 1970s (with participation by the United States) under the auspices of an international organization known as the “Customs Cooperation Council” (now informally known as the “World Customs Organization” or simply the “WCO”) which is based in Brussels, Belgium.¹ This work resulted in the “Harmonized Commodity Description and Coding System” (“Harmonized System” or simply the “HS”).² It went into effect internationally on January 1, 1988, with the entry into force of the International Convention on the Harmonized Commodity Description and Coding System (“Harmonized System Convention”) to which the Harmonized System is appended as an annex.

¹ In June 1994, the informal working name “World Customs Organization” was adopted for the Customs Cooperation Council, in order to indicate more clearly its nature and world-wide status. The convention establishing the Customs Cooperation Council (signed in Brussels, Belgium on December 15, 1950) has not been amended, and the “Customs Cooperation Council” remains the official name.

² The Harmonized System was derived from the earlier “Customs Cooperation Council Nomenclature,” which in turn was a new version of the older “Brussels Tariff Nomenclature.”

Harmonized System Structure

The Harmonized System is a complete product classification system (i.e., it covers all imported merchandise). It was designed as a “core” system so that countries adopting it could make further subdivisions according to their particular tariff and statistical needs.

At the international level, the Harmonized System consists of approximately 5,000 article descriptions which appear as headings and subheadings. These descriptions are arranged into 97 chapters grouped into 21 sections. Chapter 77 is reserved for future use. Two final chapters, 98 and 99, are reserved for national use by individual countries in the coding of provisions other than according to the terms of the Harmonized System nomenclature (e.g., special tariff programs and temporary duty suspensions or increases). In addition, the Harmonized System also contains interpretative rules and section, chapter and subheading notes for use in the classification of merchandise.

Goods in trade generally appear in the Harmonized System in categories or product headings beginning with crude and natural products and continuing in further degrees of complexity through advanced manufactured goods. This progression is found within chapters and among chapters (e.g., live animals are classified in chapter 1, animals hides and skins in chapter 41 and leather footwear in chapter 64). These product headings are designed at the broadest coverage levels with 4-digit numerical codes (or headings) and, where deemed appropriate, are further subdivided into narrower categories assigned two additional digits (which comprise 6-digit numerical codes or subheadings). The first two digits of a 4-digit heading indicate the chapter in which the heading is found (e.g., heading 2106 is in chapter 21).³

Harmonized System Convention Obligations

At the essence of the Harmonized System are the headings and subheadings and their related numerical codes; the section, chapter and subheading notes; and the General Rules of Interpretation (for use in the interpretation of the Harmonized System). The basic obligation undertaken by the contracting parties to the Harmonized System Convention is that their customs tariff and foreign-trade statistical nomenclatures be in conformity with the Harmonized System.⁴ Moreover, the contracting parties are

³ The official HS numbering system uses a decimal point after the first two digits at the four digit (heading) level, but no decimal point after the first two digits at the subheading levels. Many national schedules (including the U. S.) do not use the decimal point at the four digit level. To avoid confusion, the decimal point is omitted from the four digit level in this publication.

⁴ Developing Country Exception: Article 4 of the Harmonized System Convention allows developing country contracting parties to delay their application of some or all of the subheadings of the Harmonized

obligated to use all the headings and subheadings without addition or modification together with their related numerical codes. Further, the parties are required to apply the General Rules of Interpretation and all section, chapter and subheading notes without modification to the scope of the sections, chapters, headings or subheadings of the Harmonized System. Each contracting party, however, is permitted to adopt in its national tariff system further detailed subdivisions for classifying goods (that is, for tariff, quota or statistical purposes) so long as any such subdivision is added and coded at a level beyond the 6-digit numerical code provided in the Harmonized System. Coding beyond the 6-digit level is usually at the 8-digit level and is generally referred to as the “national level.”

It should be noted that many countries use the Harmonized System as the basis of their tariff systems who are not contracting parties to the Harmonized System Convention. The level of numerical coding based on the Harmonized System found in the tariff systems of such countries may vary. (Attached at the end of this discussion on the Harmonized System is a list of countries, territories or customs or economic unions using the Harmonized System (as of November 2003)).

Legal Text of the Harmonized System

When classifying merchandise under the Harmonized System, the language of the General Rules of Interpretation, section, chapter and subheading notes, and the terms of the headings and subheadings are to be consulted and applied. They constitute the “legal text” (also known as the “nomenclature”) of the Harmonized System.⁵ The titles of sections, chapters and subchapters are provided for ease of reference only and have no legal significance.

Heading and Subheading Provisions

Merchandise may be specifically provided for or identified by its common, commercial or technical name in an article or product description (i.e., the text to a heading or subheading) in the Harmonized System. When merchandise is not so specifically provided for in the Harmonized System, the article description covering such merchandise is generally considered to be a “residual provision” (sometimes also referred to as a “basket provision”) by use of the phrase “not elsewhere specified or included” or by the use of the term “other.”

EXAMPLE: Heading 4010 (see excerpt below from heading 4010) provides for “conveyor or transmission belts or belting, of vulcanised

System for such a period as may be necessary with respect to their patterns of international trade or administrative resources.

⁵ See Article 1 (a) to the Harmonized System Convention.

rubber.” Within the subheading structure of that heading, there is 5-digit (or “one-dash”) subheading 4010.1 which provides for “conveyor belts or belting.” Within the subheading structure of 5-digit subheading 4010.1 there are four 6-digit (or “two-dash”) subheadings: 4010.11 which provides for conveyor belts or belting “reinforced only with metal”; 4010.12 which provides for conveyor belts or belting “reinforced only with textile materials”; 4010.13 which provides for conveyor belts or belting “reinforced only with plastics”; and 4010.19 which provides for “other” conveyor belts or belting. Thus, all merchandise properly classified in 5-digit subheading 4010.1 that does not satisfy the terms of 6-digit subheadings 4010.11, 4010.12 or 4010.13 would be classified in 6-digit residual subheading 4010.19.

Section VII
Chapter 40
40.09, 13,

| Heading No. | H.S. Code | |
|--------------|-----------|---|
| 40.10 | | Conveyor or transmission belts or belting, of vulcanised rubber. |
| | 4010.11 | - Conveyor belts or belting: |
| | 4010.12 | -- Reinforced only with metal |
| | 4010.13 | -- Reinforced only with textile materials |
| | 4010.19 | -- Reinforced only with plastics |
| | | -- Other |
| | 4010.21 | - Transmission belts or belting: |
| | | --Endless transmission belts of trapezoidal cross-section (V-belts), whether or not grooved, of a circumference exceeding 60 cm but not exceeding 180 cm. |
| | | * * * |

Excerpt from heading 4010 of the Harmonized System

As evident from the above discussion, the Harmonized System covers all imported merchandise. Or, in other words, although not all goods are specifically provided for, all goods are classifiable and have a place in the Harmonized System.

Rates of Duty

The Harmonized System Convention imposes no obligations on the contracting parties regarding rates of duty.⁶ Rates of duty are left to each contracting party to apply based on national legislation. The rates of duty for most countries today are generally the result of trade agreements (i.e., either bilateral agreements or multilateral agreements such as World Trade Organization bound tariff-rate agreements).

INTERPRETATION OF THE HARMONIZED SYSTEM

General Rules of Interpretation

As indicated previously, the tariff classification of merchandise under the Harmonized System is governed by the principles set forth in the General Rules of Interpretation (“GRIs”). The GRIs are intended to be consulted and applied each time merchandise is to be classified under the Harmonized System. Accordingly, it is the GRIs that are the single set of legal principles that always govern the classification of merchandise under the Harmonized System. There are six GRIs in all.

When classifying merchandise, one must be aware that due to the hierarchical structure of the Harmonized System:

- (1) merchandise must first be classified in the Harmonized System in the 4-digit heading whose terms most specifically describe the merchandise (unless otherwise required or directed by the GRIs); and
- (2) only 4-digit headings are comparable (i.e., no consideration should be given to the terms of any subheading within any 4-digit heading when considering the proper classification of merchandise at the 4-digit heading level).

EXAMPLE: An electric toothbrush could potentially be classified in heading 8509 as an electromechanical domestic appliance with self-contained motor and in heading 9603 as a brush. Within heading 9603, subheading 9603.21 provides for “toothbrushes.” No consideration should be given to this subheading when comparing the terms of the headings to determine the appropriate heading for classification of the electric toothbrush (as merchandise must first be classified in the Harmonized System at the heading level by the terms of the headings).

⁶ See Article 9 to the Harmonized System Convention.

General Rule of Interpretation No. 1

RULE 1. THE TABLE OF CONTENTS, ALPHABETICAL INDEX, AND TITLES OF SECTIONS, CHAPTERS AND SUB-CHAPTERS ARE PROVIDED FOR EASE OF REFERENCE ONLY; FOR LEGAL PURPOSES, CLASSIFICATION 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: [that is, GRIs 2 to 6].

GRI 1 takes precedence over the remaining rules. It requires that classification be determined first according to the terms of the headings of the Harmonized System and any relative section or chapter notes.

GRI 1 EXAMPLES:

EXAMPLE 1: Under GRI 1, if a provision specifically and completely describes a product, then the product would be classified in that provision (e.g., fresh grapes are classified under heading 0806 which provides for “grapes, fresh or dried”). In this situation, the product is classified by the terms of a heading.

EXAMPLE 2: Note 3 to Section XVI to the Harmonized System directs classification of composite machines described therein on the basis of the “principal function” of the machines. Under GRI 1, such machines are to be classified as so directed in that note. In this situation, the products are classified by the terms of a section note.

GRI 1 further states that if the texts of the headings and of the notes cannot, by themselves, determine the appropriate heading for classification of merchandise, then classification is to be determined by the appropriate GRIs that follow GRI 1 (i.e., GRIs 2 to 6).

General Rule of Interpretation No. 2

RULE 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 ARTICLE HAS THE ESSENTIAL CHARACTER OF THE COMPLETE OR FINISHED ARTICLE. IT SHALL ALSO INCLUDE A REFERENCE TO THAT ARTICLE COMPLETE OR FINISHED (OR FALLING TO BE CLASSIFIED AS COMPLETE OR FINISHED BY VIRTUE OF THIS RULE), ENTERED 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 2 contains two sections: 2 (a) and 2 (b). These two sections deal with the classification of goods that as imported are (1) incomplete or unfinished, (2) unassembled or disassembled, or (3) composed of mixtures or combinations of materials or substances.

GRI 2 (a)

GRI 2 (a) has two parts. Part one deals with incomplete or unfinished goods and part two deals with unassembled or disassembled goods.

Part One

The first part of GRI 2 (a) extends the scope of any heading that refers to a particular article to cover not only the complete article but also that article incomplete or unfinished, provided that, as presented, it has the “essential character” (which is discussed below) of the complete or finished article.

EXAMPLE: A ceramic statuette of the Hokie Bird that will be painted after importation would still generally have the essential character of a ceramic statuette of heading 6913 (i.e., one would still recognize and identify the product as a ceramic statuette) and would therefore be classified pursuant to GRI 2 (a) as the finished product in heading 6913.

Part Two

The second part of GRI 2 (a) provides that complete or finished articles presented unassembled or disassembled (which may occur for reasons related to the packing, handling or transportation of the articles) are to be classified in the same heading as the assembled article. It also provides that incomplete or unfinished articles presented unassembled or disassembled are to be classified in the same heading as the complete or finished article provided that as presented they have the essential character of the complete or finished article (as provided for in the first part of GRI 2 (a)).

EXAMPLE: A shipment of an unassembled bicycle (containing all parts and components necessary to build a bicycle) would be classified in heading 8712 as an assembled, finished bicycle as if it were entered (or imported) as the assembled, finished bicycle.

GRI 2 (b)

GRI 2 (b) governs the classification (1) of mixtures and combinations of materials or substances and (2) of goods consisting of two or more materials or substances. The rule extends headings referring (1) to a material or substance to include mixtures or combinations of that material or substance with other materials or substances and (2) to goods of a given material or substance to include goods consisting wholly or partly of that material or substance (but only as long as another heading does not refer to the goods in their mixed or composite state). If the addition of another material or substance deprives the imported good of the character of the kind mentioned in the heading under consideration, however, then one must resort to GRI 3 for classification of the merchandise. Or, in other words, mixtures and combinations of materials or substances, and goods consisting of more than one material or substance, if upon initial consideration are potentially classifiable under two or more headings, they must be classified according to the principles of GRI 3.

EXAMPLE: Under GRI 2 (b), a stainless steel travel mug with a plastic handle would be classifiable in heading 7323 as a table, kitchen or other household article of steel despite the plastic handle (as it retains the character of a table, kitchen or other household article of steel as mentioned in heading 7323). If a travel mug, however, contained relatively equal amounts of stainless steel and plastic (e.g., the outside or outer surface of the mug is made of plastic and the inside or inner surface (lining) of the mug is made of stainless steel), then the travel mug would be potentially classifiable under two headings: heading 3924 as tableware, kitchenware or other household article of plastic and heading 7323 as a table, kitchen or other household article of steel. (Or, contrasting this product with the initial one considered in this example, a travel mug consisting of relatively equal amounts of stainless steel and plastic does not have the character of a table, kitchen or other household article of steel as mentioned in heading 7323.) In this situation, pursuant to GRI 2 (b), resort would need to be made to GRI 3 for classification of the product.

General Rule of Interpretation No. 3

RULE 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 3 provides for the classification of goods that are *prima facie* (or when initially considered) classifiable under two or more headings. In such instances, the goods are classified pursuant to this rule based on three criteria, taken in order:

GRI 3 (a)

The first sentence to GRI 3 (a) provides that goods should be classified in the heading that provides the most specific description. In general, under this criterion, (1) a description by name is more specific than a description by class and (2) a description that more clearly identifies a product is more specific than one which is less complete.

GRI 3 (a) EXAMPLES:

EXAMPLE 1: An example of a description by name in one heading that is more specific than a description by class in another heading is as follows: “shavers and hair clippers with self-contained electric motor” of heading 8510 is more specific than “electro-mechanical tools for working in the hand with self-contained electric motor” of heading 8467 or “electro-mechanical domestic appliances with self-contained electric motor” of heading 8509.

EXAMPLE 2: An example of a description in one heading that more clearly identifies a product than a description in another heading (and thus the first description is more specific than the second description) is as follows: A product identified as “unframed safety glass made of toughened or laminated glass that is shaped and identifiable for use in airplanes” is more clearly described by the article description “safety glass” of heading 7007 than by the article description “parts of goods of heading 8801 or 8802” (parts of aircraft and spacecraft) of heading 8803.

The second sentence to GRI 3 (a) further provides that when two or more headings each refer to only one of the materials or substances in mixed or composite goods, or to only some of the articles included 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. If this situation exists, then resort must be made to GRI 3 (b). (See examples discussed below for GRI 3 (b).)

GRI 3 (b)

GRI 3 (b) deals with mixed goods, composite goods, and goods put up in sets for retail sale as described above in the second sentence to GRI 3 (a) (i.e., each of the goods is potentially classifiable in more than one heading because each good consists of two or more different ingredients, materials, components or articles and no heading provides for the goods as a whole). By application of this criterion, such goods are classified according to the ingredient, material, component or article that gives the mixtures, composite goods, or sets their “essential character.”

Goods Put up in Sets for Retail Sale. For the purposes of GRI 3 (b), the term “goods put up in sets for retail sale” means that the goods under consideration must (a) consist of at least two different articles (i.e., the articles must be of a different type or nature, e.g., two table spoons are not such a “set”) which are, *prima facie*, classifiable in different headings; (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking.

GRI 3 (b) EXAMPLES:

MIXTURE EXAMPLE: An example of a “mixture” coming within the purview of GRI 3 (b) would be a mixture of barley of heading 1003 and oats of heading 1004 in equal amounts. In such an instance, there is a product consisting of two or more ingredients with each ingredient having a provision in which it could potentially be classified and no provision exists in the Harmonized System that provides for the mixture as a whole.

COMPOSITE GOOD EXAMPLE: An example of a “composite good” coming within the purview of GRI 3 (b) would be a combined flashlight of heading 8513 and radio of heading 8527 (i.e., both are contained in the same housing). In such an instance, there is a product consisting of two or more different units or components that are located in the same housing with each component having a provision in which it could potentially be classified and no provision exists in the Harmonized System that provides for the composite good as a whole.

SET EXAMPLE: An example of a “set” coming within the purview of GRI 3 (b) would be a hairdressing kit consisting of a pair of electric hair clippers of heading 8510, a comb of heading 9615, a pair of scissors of heading 8213, and a brush of heading 9603. In such an instance, there is a product that consists of more than one item or article with each article having a provision in which it could potentially be classified and no provision exists in the Harmonized System that provides for the set as a whole. In the above-mentioned hairdressing kit, the articles are put up together to meet the particular need or carry out the specific activity of grooming hair.

In each of the above-mentioned three examples, one would need to make a determination as to the ingredient, material, component or article that imparts the essential character to the particular good. The good would then be classified as if made or consisting entirely of that ingredient, material, component or article. In some situations, however, no ingredient, material, component or article will be found to impart the essential character to a particular good. In such instances, resort would need to be made to GRI 3 (c) in order to classify the good.

GRI 3 (c)

GRI 3 (c) states that goods should be classified under the heading that occurs last in numerical order from among those that equally merit consideration if the goods cannot be classified by reference to GRIs 3 (a) or 3 (b).

GRI 3 (c) EXAMPLE:

In the above-mentioned example of the mixed good consisting of barley and oats in equal amounts, if neither the barley nor the oats is found to impart the essential character to the product, then by application of GRI 3 (c) the product would be classified in heading 1004 as if consisting solely of the oats. This is because the heading number for the oats found in the mixture occurs last in numerical order as between it and the barley (i.e., 1003 for the barley and 1004 for the oats).

WHAT IS THE ESSENTIAL CHARACTER OF A PRODUCT?

The term “essential character,” as used in the GRIs, is not defined in the Harmonized System. As concerns that term, however, it is stated in the Explanatory Notes to the Harmonized System (which is an extrinsic interpretative aid to the Harmonized System that is discussed below) that the factor that determines the essential character of a good will vary as between different kinds of goods (i.e., essential character must be determined on a case-by-case basis). The essential character of a good, may, for example, be determined by the nature of the material or component, its bulk, quality, weight or value, or by the role of a constituent material in relation to the use of the goods. Other factors may be considered in determining the essential character of a product.

General Rule of Interpretation No. 4

RULE 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.

If goods cannot be classified according to GRIs 1 to 3, then resort must be made to GRI 4. GRI 4 requires that goods are to “be classified under the heading appropriate to the goods to which they are most akin.” This rule should be applied very infrequently as GRIs 1 to 3 will cover the classification of almost all goods. When attempting to apply this rule, however, any determination regarding “kinship” should depend on such factors as description, character, purpose or intended use, designation, production process and the nature of the goods.

General Rule of Interpretation No. 5

RULE 5. IN ADDITION TO THE FOREGOING PROVISIONS, 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. THIS RULE DOES NOT, HOWEVER, APPLY TO CONTAINERS WHICH GIVE THE WHOLE ITS ESSENTIAL CHARACTER;

(b) SUBJECT TO THE PROVISIONS OF RULE 5(a) ABOVE, PACKING MATERIALS AND PACKING CONTAINERS ENTERED 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 IS NOT BINDING WHEN SUCH PACKING MATERIALS OR PACKING CONTAINERS ARE CLEARLY SUITABLE FOR REPETITIVE USE.

GRI 5 has two sections: GRI 5 (a) and GRI 5 (b). These two sections deal with various types of containers presented with the articles for which they are intended.

GRI 5 (a)

GRI 5 (a) deals with the treatment of long-term use cases, boxes, and similar containers presented with the articles for which they are intended. Under this rule, long-term use containers imported with articles for which they are intended to be used are to be classified with the articles if they are of a kind of container normally sold with such articles (e.g., camera cases with cameras and musical instrument cases with musical instruments). This rule, however, does not apply to containers that give the imported article its essential character (e.g., a silver tray or dish containing tea or a high-quality ornamental ceramic bowl containing candies or sweets). Such merchandise is to be classified under the heading for the container.

GRI 5 (b)

GRI 5 (b) states that packaging containers and materials not normally intended to be reused are classified with the articles in which they are presented or imported (e.g., cardboard boxes or containers containing food products). This rule, however, does not apply to packaging materials or packing containers clearly suitable for repetitive use (e.g., certain metal drums or containers of iron or steel for compressed or liquefied gas). Such containers are to be classified separately from the materials that they hold.

General Rule of Interpretation No. 6

RULE 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 THIS RULE, THE RELATIVE SECTION, CHAPTER AND SUBCHAPTER NOTES ALSO APPLY, UNLESS THE CONTEXT OTHERWISE REQUIRES.

GRI 6 is the last of the GRIs. It prescribes that, for legal purposes, GRIs 1 to 5 govern, *mutatis mutandis* (or with the necessary changes), classification at subheading levels within the same heading. Or, in other words, GRIs 1 to 5 are to be reapplied to determine the classification of goods at the subheading level. Goods are to be classified at equal subheading levels (that is, at the same digit level) within the same heading under the subheading that most specifically describes or identifies them (or as otherwise required or directed under GRIs 1 to 5). Only subheadings at the same level within the same heading are comparable (i.e., no consideration should be given to the terms of any subheading within another subheading when considering the proper classification of merchandise at the higher level subheading).

GRI 6 EXAMPLES:

EXAMPLE 1: A framed glass mirror is found to be classified in heading 7009. Thereafter, it would have to be classified within the subheading structure of that heading by application of GRIs 1 to 5 pursuant to GRI 6:

70.09 - GLASS MIRRORS, WHETHER OR NOT FRAMED,
 INCLUDING REAR-VIEW MIRRORS.

7009.10 - Rear-view mirrors for vehicles

- Other:

7009.91 -- Unframed

7009.92 -- Framed

Initially, a determination would need to be made as to whether the framed glass mirror is classified at the 5-digit (or “one-dash”) subheading level in 5-digit subheading 7009.1 (“rear-view mirrors for vehicles”) or in 5-digit subheading 7009.9 (“other”). If the product is found to be classified in 5-digit subheading 7009.1 (as a rear-view mirror for a vehicle), then the classification analysis would end there and the product would be classified in subheading 7009.10 (as 5-digit subheading 7009.1 is not further subdivided). In the instant case, the framed glass mirror does not satisfy the article description for 5-digit subheading 7009.1. Therefore, the product would be classified at the 5-digit subheading level in 5-digit subheading 7009.9 (as a glass mirror other than a rear-view mirror for a vehicle). Next, a determination would have to be made as to whether the product is classified at the 6-digit (or “two-dash”) subheading level within 5-digit subheading 7009.9 in 6-digit subheading 7009.91 (as an *unframed* glass mirror other than a rear-view mirror for a vehicle) or in 6-digit subheading 7009.92 (as a *framed* glass mirror other than a rear-view mirror for a vehicle). The framed glass mirror would be classified in subheading 7009.92 by application of GRI 1 pursuant to GRI 6.

EXAMPLE 2: A set consisting of a shovel, fork, and pick for use in gardening would be classified in heading 8201 as each article is specifically provided for in the terms to that heading. Within heading 8201, shovels are provided for in subheading 8201.10, forks in subheading 8201.20, and picks in subheading 8201.30. Consequently, one would need to resort to GRI 3 pursuant to GRI 6 in order to classify the set at the subheading level within heading 8201. That is, one would need to determine which of the three articles imparts the essential character to the set pursuant to GRI 3 (b). If no one article is found to impart the essential character to the set, then one would classify the set under subheading 8201.30 because the subheading number for that article occurs last in numerical order as provided for in GRI 3 (c).

As evident from the above discussion, the GRIs provide that goods must first be classified by heading level, and only after the appropriate heading has been determined, then by equal subheading levels (first by five-digit and then by six-digit international levels) within that heading. When considering the appropriate classification at a particular subheading level, no consideration should be given to any of the terms of any lower-level subheading (as the analysis at each subheading level should be conducted without consideration of the terms of any lower-level subheading provision). This step-by-step analysis applies without exception throughout the Harmonized System (and throughout any national subheading levels as found in a particular country's Harmonized System-based tariff system).

Extrinsic Interpretative Aids

In interpreting the Harmonized System, one may at times need to resort to extrinsic interpretative aids. Chief among them are (1) The *Harmonized Commodity Description and Coding System Explanatory Notes (Explanatory Notes)* and (2) the *Harmonized System Compendium of Classification Opinions*.

(1) Explanatory Notes

The *Explanatory Notes* represent the official interpretation of the Customs Cooperation Council (hereafter referred to as the "World Customs Organization") on the scope of each heading of the Harmonized System at the international level. As such, they are intended to be applicable at the 4-digit (heading) numerical code level, and sometimes at the 6-digit (subheading) numerical code level. At times, however, the *Explanatory Notes* may provide guidance at the national numerical code level (i.e., beyond the 6-digit numerical code level) in a contracting party's tariff system.

Although they are neither legally binding on the contracting parties to the Harmonized System Convention nor considered to be dispositive in the interpretation of the Harmonized System, the generally accepted view is that the *Explanatory Notes* should be consulted for guidance and considered as persuasive authority in interpreting the Harmonized System (although some countries may treat the *Explanatory Notes* as having the same legal authority as the legal text of the Harmonized System). The *Explanatory Notes* are periodically amended by the Harmonized System Committee (which is a committee of the World Customs Organization that is charged with interpreting and maintaining the Harmonized System--see discussion below). All such amendments to the *Explanatory Notes* are periodically published by the World Customs Organization as amending supplements to that document.

The *Explanatory Notes* are published both in English and in French (which are the two official languages of the World Customs Organization). The most recent edition of the *Explanatory Notes* is the third edition.

40.10 – CONVEYOR OR TRANSMISSION BELTS OR BELTING, OF VULCANISED RUBBER.

- Conveyor belts or belting :

4010.11 -- Reinforced only with metal

4010.12 -- Reinforced only with textile materials

4010.13 -- Reinforced only with Plastics

4010.19 -- Other

* * *

This heading covers conveyor or transmission belts and belting, wholly of vulcanised rubber, or of textile fabric impregnated, coated, covered or laminated with rubber or made from textile yarn or cord impregnated, coated, covered or sheathed with rubber (see Note 8 to this Chapter). It also covers belts or belting of vulcanised rubber reinforced with glass fibre fabric or glass fibres or with cloth of metal wire.

Belts and belting (other than belts or belting wholly of vulcanised rubber) generally consist of a carcass made up of several layers of fabric, whether or not rubberised (e.g., warp and weft fabric, knitted or crocheted fabric, layers of parallelised yarns) or of steel cable or strip which is wholly covered with vulcanised rubber.

The heading includes belting in the length (for subsequent cutting to length) as well as belts already cut to length (whether or not joined end to end or fitted with fasteners); it also covers endless belts.

All these goods may be of rectangular, trapezoidal (V-belts and V-belting), circular or other cross-section.

Belts or belting of trapezoidal cross-section are those products having one or more “V” shapes in cross-section. The “V” surfaces are designed to provide good wedging action and minimum slippage along the sides of the sheave. The category includes, e.g., belts or belting having a cross-section with :

(A) A single trapezoidal shape



(B) Trapezoidal shapes on opposite sides.



(C) Two or more trapezoidal shapes on the same side (V-ribbed).



A V-ribbed belt is an endless belt with a longitudinally ribbed traction surface which engages and grips, by friction, pulley grooves of similar shape. V-ribbed belts are a type of V-belt.

Grooves (whether moulded or cut) in V-belts or belting reduce bending stress and help dissipate the heat from rapid flexing; this is especially important on drives where the belts run over small sheaves at high speeds. Grooves, other than longitudinal grooves, have no impact on the classification of V-belts or belting.

Synchronous belts (see illustration) are designed to transmit power while maintaining a constant rotational relationship between sheaves. The completed product is often simply referred to as a timing belt. Notches, usually on the inner surface of the belt, are provided to operate smoothly with notched sheaves. Synchronous belts or belting do not have a trapezoidal cross-section.

Belts of this heading may be presented in the form of a sleeve (tube) from which finished items can be cut; this presentation does not affect classification.

* * *

Excerpt from heading 4010 of the *Explanatory Notes* © 2002 Customs Co-operation Council

(2) Compendium of Classification Opinions

The *Harmonized System Compendium of Classification Opinions* is a collection of decisions issued by the Harmonized System Committee. The decisions usually result from classification problems raised by or disputes between customs administrations.

All classification decisions issued as classification opinions by the Harmonized System Committee are periodically published by the World Customs Organization as amending supplements to the *Compendium of Classification Opinions*. The *Compendium of Classification Opinions* is published both in English and in French.

Availability of the Explanatory Notes & the Compendium of Classification Opinions

The *Explanatory Notes* and the *Compendium of Classification Opinions* are available for sale by the World Customs Organization, Publications Department, Rue du Marché 30, B 1210, Brussels, Belgium. Further information on WCO publications is available from the WCO web site: <www.wcoomd.org>.

The WCO Publications Department may be contacted as follows:

Telephone number: 322-209-9504
Facsimile number: 322-209-9490
E-mail address: Publications@wcoomd.org

Amendment and Maintenance Procedures and Dispute Settlement

For an international tariff system to remain viable and current, mechanisms must exist for amending and maintaining it and for settling disputes arising from its use. The Harmonized System Convention provides for the amendment and maintenance of the Harmonized System and for the settlement of classification disputes between contracting parties to that convention.

Amendment and Maintenance Procedures

Harmonized System Committee

As noted above, there exists a committee of the World Customs Organization that is known as the Harmonized System Committee ("HSC"). Article 6 of the Harmonized System Convention establishes the HSC. The HSC is composed of representatives of the contracting parties to the Harmonized System Convention and members of the World Customs Organization who are not contracting parties to the Harmonized System Convention. It may also be composed of representatives of states which are not

members of the World Customs Organization, representatives of any relevant intergovernmental or other international organizations, and any experts whose participation is considered desirable. The HSC meets twice a year at the World Customs Organization's headquarters in Brussels, Belgium. Questions submitted for consideration by the HSC are decided by vote after discussion and debate. Only contracting parties to the Harmonized System Convention have the right to vote.

The HSC's responsibilities include issuing classification decisions under the Harmonized System. Classification questions presented for consideration by the HSC are usually the result of classification problems raised by or disputes between customs administrations. Classification decisions require a simple majority vote. They may take one or more of the following forms: (1) mention of the decision in the report of the session of the HSC (which occurs with every classification decision); (2) issuance of a classification opinion for inclusion in the Compendium of Classification Opinions; or (3) an amendment to the Explanatory Notes.

The HSC also considers amendments to the legal text of the Harmonized System. Such amendments require a two-thirds majority vote. All proposed amendments to the Harmonized System, however, must first be adopted and recommended to the contracting parties to the Harmonized System Convention by the Council (which is the executive or governing body of the World Customs Organization and is composed of representatives of the members of the World Customs Organization) before the amendments can go into effect. It should be noted, however, that a contracting party may stop the entering into force of an amendment recommended by the Council. This is done by the contracting party entering a reservation against the amendment with the Secretary General of the World Customs Organization within six months of the date on which the Secretary General has notified the contracting parties of the amendment.

Each session of the HSC is preceded by a meeting of a "working party." That party examines the language of proposed amendments and classification opinions that were approved in principle by the previous session of the HSC. The language of all amendments and opinions examined by a working party are sent to the HSC for review and final approval.

The United States actively participates in the sessions of the HSC. The CBP, Census Bureau and the U.S. International Trade Commission represent the United States at the sessions of the HSC. The CBP representative serves as the head of the U.S. delegation to the HSC.

Harmonized System Review Subcommittee

In order to ensure that the Harmonized System continues to remain current, the Harmonized System Review Subcommittee ("RSC") was created as a subcommittee of the HSC. The RSC is responsible for periodically reviewing the Harmonized System and proposing amendments to the legal text that reflect changes in technology and in

patterns of international trade. The RSC is composed of the same representatives as the HSC (see above discussion). As with the HSC, the RSC meets twice a year at the World Customs Organization's headquarters in Brussels, Belgium.

The RSC works by consensus. If no consensus can be reached on a particular matter, then the differing views with their supporting rationales are reported to the HSC. All amendments proposed by the RSC must be referred to the HSC for approval. Those amendments approved by the HSC, as indicated above, must still be adopted and recommended to the contracting parties to the Harmonized System Convention by the Council before they can go into effect.

The United States actively participates in the sessions of the RSC. The CBP, Census Bureau and the U.S. International Trade Commission represent the United States at the sessions of the RSC. The U.S. International Trade Commission representative serves as the head of the U.S. delegation to the RSC.

Scientific Subcommittee

The HSC is often assisted in its technical work by the Scientific Subcommittee ("SSC"). The SSC is an advisory body of the World Customs Organization for questions involving chemical or other technical or scientific matters. It is principally composed of laboratory personnel from member administrations. The SSC assists the HSC by providing technical advice on questions the HSC has referred to it. The SSC usually meets once a year at the World Customs Organization's headquarters in Brussels. The United States actively participates in the sessions of the SSC. The CBP represents the United States at the sessions of the SSC.

Secretariat and Nomenclature & Classification Sub-Directorate

The World Customs Organization has a staff known as the "Secretariat." It consists of permanent personnel and experts recruited from member administrations (who are appointed for set terms). Nomenclature and classification matters are handled within the Secretariat by the "Nomenclature and Classification Sub-Directorate" of the Tariff and Trade Affairs Directorate. Its duties include organizing the meetings of the HSC, RSC and SSC (which includes preparing the working documents and reports for the meetings) and providing informal advice to customs administrations on the Harmonized System classification of merchandise.

Dispute Settlement

Article 10 of the Harmonized System Convention sets forth the procedures for the settlement of classification disputes between contracting parties. Under Article 10, parties are initially required to attempt to settle the matter between themselves. When attempting to so settle such a dispute, the parties may seek the informal views of the World Customs Organization's Secretariat.

If the parties cannot resolve the dispute through bilateral discussions, then the matter may be submitted for a decision by the HSC. Unless the parties involved agree otherwise, a classification decision by the HSC is not legally binding on the parties.

Disputes may also be referred by the HSC to the Council which will make recommendations in conformity with item (e) to Article III to the Convention establishing the Customs Cooperation Council.

LIST OF COUNTRIES, TERRITORIES AND CUSTOMS OR ECONOMIC UNIONS USING THE HARMONIZED SYSTEM

Situation as of 28 November 2003
(Total 196)

Notes :

+ Acceptance (i.e., Contracting Party to the Harmonized System Convention).

x Indicates application only.

+x Some Members are Contracting Parties to the Harmonized System Convention.

| | | | | | |
|--------------------------------|---|---------------------------------|---|--|----|
| Albania | x | Greece | + | Papua New Guinea | x |
| Algeria | + | Grenada | x | Paraguay | x |
| Andorra | x | Guatemala | x | Peru | + |
| Angola | x | Guinea | + | Philippines | + |
| Antigua & Barbuda | x | Guinea Bissau | x | Poland | + |
| Argentina | + | Guyana | x | Polynesia (French Terr.) | x |
| Armenia | x | Haiti | + | Portugal | + |
| Australia | + | Honduras | x | Qatar | x |
| Austria | + | Hong Kong, China..... | x | Romania | + |
| Azerbaijan..... | + | Hungary | + | Russia | + |
| Bahamas | x | Iceland | + | Rwanda | + |
| Bahrain | + | India | + | Saint Kitts and Nevis | x |
| Bangladesh | + | Indonesia | + | Saint Lucia | x |
| Barbados | x | Iran | + | Saint Pierre and Miquelon (French Terr.) | x |
| Belarus | + | Ireland | + | Saint Vincent and the Grenadines | x |
| Belgium..... | + | Israel | + | Samoa | x |
| Belize | x | Italy | + | Saudi Arabia | + |
| Benin | x | Jamaica | x | Senegal | + |
| Bermuda..... | x | Japan | + | Serbia and Montenegro..... | + |
| Bhutan | x | Jordan | + | Sierra Leone | x |
| Bolivia..... | + | Kazakhstan..... | x | Singapore | x |
| Botswana..... | + | Kenya | + | Slovakia | + |
| Brazil..... | + | Kiribati | x | Slovenia | + |
| Brunei Darussalam..... | x | Korea (Rep.) | + | Solomon Islands | x |
| Bulgaria | + | Kuwait | + | South Africa | + |
| Burkina Faso | + | Kyrgyzstan..... | x | Spain | + |
| Cambodia | + | Latvia | + | Sri Lanka | + |
| Cameroon..... | + | Lebanon | + | Sudan | + |
| Canada | + | Lesotho | + | Suriname | x |
| Cape Verde | x | Liberia..... | x | Swaziland | + |
| Central African Republic | + | Libyan Arab Jamahiriya | + | Sweden | + |
| Chad | + | Liechtenstein | x | Switzerland | + |
| Chile | x | Lithuania | + | Syrian Arab Republic..... | x |
| China | + | Luxembourg | + | Tajikistan | x |
| Colombia | + | Macau, China | x | Tanzania | x |
| Comoros | x | Madagascar | + | Thailand | + |
| Congo (Dem. Rep.) | + | Malawi | + | The Former Yugoslav Republic of Macedonia | + |
| Congo (Rep.) | x | Malaysia | + | Togo | + |
| Cook Islands | x | Maldives | + | Tonga | x |
| Costa Rica | x | Mali | + | Trinidad and Tobago | x |
| Côte d'Ivoire | + | Malta | + | Tunisia | + |
| Croatia | + | Marshall Islands | x | Turkey | + |
| Cuba | + | Mauritius | + | Turkmenistan..... | x |
| Cyprus | + | Mauritania..... | + | Tuvalu | x |
| Czech Republic | + | Mexico | + | Uganda | + |
| Denmark | + | Micronesia | x | Ukraine | + |
| Djibouti..... | x | Mongolia | + | United Arab Emirates | + |
| Dominica | x | Morocco | + | United Kingdom | + |
| Dominican Republic | x | Mozambique | x | United States | + |
| Ecuador | x | Myanmar | + | Uruguay | x |
| Egypt | + | Namibia | x | Uzbekistan..... | + |
| El Salvador | x | Netherlands | + | Vanuatu | x |
| Equatorial Guinea | x | Nepal | x | Venezuela | + |
| Eritrea..... | + | New Caledonia (French Terr.) .. | x | Viet Nam | + |
| Estonia | + | New Zealand | + | Wallis and Futuna (French Terr.) | x |
| Ethiopia..... | + | Nicaragua | x | Yemen | + |
| Fiji | + | Niger | + | Zambia | + |
| Finland | + | Nigeria | + | Zimbabwe | + |
| France | + | Niue | x | EC | + |
| Gabon | + | Norway | + | Andean Community (CAN)..... | +x |
| Gambia..... | x | Oman | x | | |
| Georgia..... | x | Pakistan | + | | |
| Germany | + | Palau | x | | |
| Ghana | x | Panama | + | | |

Caribbean Community
(CARICOM)+x
Commonwealth of the Independent
States (CIS)+x
Economic and Monetary
Community of Central Africa
(CEMAC)+x
Economic Community of Western
African States (ECOWAS)+x
Gulf Co-operation Council(GCC)+x
Latin American Integration
Association (LAIA).....+x
Southern Cone Common Market
(MERCOSUR)+x
West African Economic and
Monetary Union (UEMOA)+x

HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES (HTSUS)

The United States, in implementing its obligations under the Harmonized System Convention, adopted and incorporated into its national customs tariff system the “core” Harmonized System. As indicated above, the U.S. customs tariff system is known as the Harmonized Tariff Schedule of the United States (“HTSUS”). The HTSUS went into effect on January 1, 1989, pursuant to section 1204 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418, August 23, 1988) (19 U.S.C. § 3004) and Presidential Proclamation 5911 (November 19, 1988) (53 Fed. Reg. 47413, November 22, 1988). It replaced the Tariff Schedules of the United States (which had been in effect since August 31, 1963). Merchandise imported into the United States is classified under the HTSUS. The HTSUS is administered by the CBP.

HTSUS Structure

In adopting and incorporating the Harmonized System, the legal text of the HTSUS consists of (1) the General Notes (which contain information relating to matters such as the territory covered by the schedule, terminology used in the schedule, special tariff programs, and the like); (2) the General Rules of Interpretation; (3) the Additional U.S. Rules of Interpretation (see discussion below); (4) all product categories set forth in 22 sections and 99 chapters that are designated by 4-digit, 6-digit, and 8-digit code numbers together with tariff rates and other treatment and Harmonized System section and chapter notes and Additional U.S. Notes (which are legal notes that provide definitions or information on the scope of the pertinent provisions or set additional requirements for classification purposes); and (5) appendices for certain chemicals, pharmaceuticals, and intermediate chemicals for dyes. The above-mentioned items are considered to be statutory provisions of law for all purposes. See Sections 1204(a) and 1204(c) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. § 3004).

In addition to the above-mentioned items, also included in the HTSUS, but not part of the legal text, are the statistical annotations, notes, annexes, suffixes, units of quantity, and other material formulated under section 484(f) of the Tariff Act of 1930 (19 U.S.C. § 1484 (f)) as well as the table of contents, footnotes, index, and other matters inserted for ease of reference.

As discussed above, chapters 98 and 99 were reserved in the Harmonized System, at the international level, for national use by individual countries in the coding of provisions other than according to the terms of the Harmonized System legal text (or nomenclature). Section XXII of the HTSUS consists of those two chapters. Chapter 98 contains special classification provisions permitting, in special circumstances, the duty free entry or partial duty free entry of goods that would otherwise be subject to duty. On the other hand, chapter 99 contains provisions that reflect legislation and executive and administrative actions pursuant to duly constituted authority under which (1) one or more of the provisions of chapters 1 through 98 are temporarily amended or modified or

(2) additional duties or other import restrictions as imposed by, or pursuant to, collateral legislation.

Harmonized Tariff Schedule of the United States (2004)

Annotated for Statistical Reporting Purposes

VIII
40-6

| Heading/ Subheading | Stat. Suf- fix | Article Description | Unit of Quantity | Rates of Duty | | |
|------------------------|----------------------|---|------------------------|---------------|--|-----|
| | | | | 1 | | 2 |
| | | | | General | Special | |
| 4010 | | Conveyor or transmission belts or belting, of vulcanized rubber: | | | | |
| | | Conveyor belts and belting: | | | | |
| 4010.11.00 | 00 | Reinforced only with metal | kg | 3.3% | Free (A,CA,CL,E, IL,J,JO,MX,SG) | 25% |
| 4010.12 | | Reinforced only with textile materials: | | | | |
| 4010.12.10 | 00 | With textile components in which vegetable fibers predominate by weight over any other single textile fiber | kg | 4.1% | Free (A,CA,CL,E, IL,J,JO,MX,SG) | 30% |
| | | With textile components in which man-made fibers predominate by weight over any other single textile fiber: | | | | |
| 4010.12.50 | 00 | Of a width exceeding 20 cm | kg | 8% | Free (A,CA,CL,E, IL,J,JO,MX) 6% (SG) | 74% |
| 4010.12.55 | 00 | Other | kg | 6.4% | Free (A,CA,CL,E, IL,J,JO,MX) 4.8% (SG) | 74% |
| 4010.12.90 | 00 | Other | kg | 1.9% | Free (A+,CA,CL,D, E,IL,J,JO,MX,SG) | 25% |
| 4010.13.00 | 00 | Reinforced only with plastics | kg | 3.3% | Free (A,CA,CL,E, IL,J,JO,MX,SG) | 25% |
| 4010.19 | | Other: | | | | |
| | | Combined with textile materials: | | | | |
| 4010.19.10 | 00 | With textile components in which vegetable fibers predominate by weight over any other single textile fiber | kg | 4.1% | Free (A,CA,CL,E, IL,J,JO,MX,SG) | 30% |
| | | With textile components in which man-made fibers predominate by weight over any other single textile fiber: | | | | |
| 4010.19.50 | 00 | Of a width exceeding 20 cm | kg | 8% | Free (A,CA,CL,E, IL,J,JO,MX) 6% (SG) | 74% |
| 4010.19.55 | 00 | Other | kg | 6.4% | Free (A,CA,CL,E, IL,J,JO,MX) 4.8% (SG) | 74% |
| 4010.19.80 | 00 | Other | kg | 1.9% | Free (A+,CA,CL,D, E,IL,J,JO,MX,SG) | 25% |
| 4010.19.90 | 00 | Other | kg | 3.3% | Free (A,CA,CL,E, IL,J,JO,MX,SG) | 25% |

* * *

Excerpt from heading 4010 of the Harmonized Tariff Schedule of the United States (HTSUS)

The tariff and tariff-related provisions (e.g., numerical codes and articles descriptions) of the HTSUS are presented in the body of the schedule in a tabular format containing several columns (see above excerpt from heading 4010 of the HTSUS). In those columns are contained the headings, subheadings, statistical annotations, article descriptions, units of quantity and rates of duty. The first column is entitled "Headings/Subheadings." This column contains the 4-digit, 6-digit and 8-digit numbers assigned to the class of goods described in the third column (i.e., article descriptions). The 4-digit number is defined as a "heading," and the 6-digit and 8-digit numbers are defined as "subheadings." As indicated above, the 4-digit and 6-digit numbers are part

of international Harmonized System whereas the 8-digit number is part of the national HTSUS. The legal text of the HTSUS extends only up to the 8-digit level. Tariff-rate lines are found only at the 8-digit level or line.

The second column is entitled “Stat. Suffix” for “Statistical Suffix.” Some tariff-rate lines are annotated to permit the collection of trade data on narrower classes of merchandise. This is done by the addition of two or more digits to the 8-digit legal numerical code. The result is a 10-digit “statistical-reporting number.” If no two-digit annotations exist for a tariff-rate line, then two additional zeroes are added onto the 8-digit legal numerical code. All merchandise falling within the 10-digit statistical-reporting numbers of a particular 8-digit legal provision receives the same rate of duty as provided for in that 8-digit provision. The 10-digit statistical-reporting numbers are for the collection of statistical data only and are not part of the legal text of the HTSUS (and thus cannot be cited as authority for the classification of merchandise).

The third column is entitled “Article Description.” Within this column are detailed descriptions of goods falling under each heading, subheading, and statistical-reporting number. As indicated below, goods are classified under a particular heading or subheading by application of the GRIs, and in some instances, by application of the Additional U.S. Rules of Interpretation.

The fourth column is entitled “Unit of Quantity.” Under this column is the unit of measure in which goods are to be reported for statistical purposes. These units are administratively determined under section 484(f) of the Tariff Act of 1930 (19 U.S.C. § 1484(f)). These same units may also be used to assess rates of duty for particular goods. Also, in some instances, two or three different figures in different units must be reported. The second unit of quantity in such instances is frequently used to administer a measure regulating imports (e.g., quotas). If the letter “X” appears in this column, only the value of the shipment must be reported.

The final three columns appear together under a superior heading entitled “Rates of Duty.” The rates of duty in that column apply to goods imported into the customs territory of the United States (which is stated in HTSUS General Note 2 to include “only the States, the District of Columbia and Puerto Rico”). The column designated number 1 is divided into two subcolumns: “General” and “Special.” Under the General subcolumn are rates of duty for countries qualifying for most-favored-nation, or normal trade relations (“NTR”) status. Most goods imported into the United States receive the general rate of duty.

Under the Special subcolumn are found the rates of duty for certain preferential tariff programs (which are designated by alphabetic symbols and discussed in HTSUS General Note 3). The preferential rates afforded under these programs are generally designed to encourage economic stability and development in certain developing countries (e.g., Caribbean Basin Initiative); to promote trade in a particular industry (e.g., the automotive industry through the United States-Canada Automobile

Agreement); or to permit market integration through free trade areas (e.g., North American Free Trade Agreement).

The rates of duty in column 2 apply to products, whether imported directly or indirectly, of certain countries and areas designated in HTSUS General Note 3. The countries and areas listed in General Note 3 are ones to whose goods the United States has decided not to extend NTR status. The rates of duty under column 2 are generally substantially higher than the general or NTR rates of duty under column 1.

Interpretation of the HTSUS

The tariff classification of merchandise under the HTSUS is governed by the principles set forth in the GRIs (and applied as discussed above) and, in the absence of special language or context which requires otherwise, then by the “Additional U.S. Rules of Interpretation”:

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;⁷

(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; and

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

⁷ For the general conditions that must be satisfied when the tariff classification of a product is controlled by the “actual use” of the product, see 19 CFR §§ 10.131 to 10.139.

As indicated previously, the GRIs and the Additional U.S. Rules of Interpretation are part of the legal text of the HTSUS and are considered to be statutory provisions of law for all purposes. See Sections 1204(a) and 1204(c) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. § 3004).

Rates of Duty

All goods imported into the United States are subject to duty or duty free entry in accordance with their classification in the HTSUS. There are three types of rates of duty that may be assessed on goods imported into the United States: *ad valorem*, specific, or compound (or mixed). An *ad valorem* rate of duty is a percentage of the dutiable or customs value of the merchandise. (This is the rate of duty most often applied in the HTSUS.) A specific rate of duty is a specified amount per unit of weight or other measure of quantity (e.g., 10 cents per pound or 5 cents per dozen). Finally, a compound (or mixed) rate of duty is a combination of both an *ad valorem* rate of duty and a specific rate of duty (e.g., 5 percent *ad valorem* plus 10 cents per pound).

Maintenance of the HTSUS

In order to remain viable and current, legal procedures exist for modifying the HTSUS under the Omnibus Trade and Competitiveness Act of 1988 (“OTCA”). Under the OTCA, the President is authorized to proclaim modifications to the HTSUS as are necessary or appropriate (which includes modifications made on the recommendation of the U.S. International Trade Commission as indicated below). See sections 1204(b) and 1206(a) of the OTCA (19 U.S.C. §§ 3004, 3006). These modifications are considered to be statutory law for all purposes. See section 1204(c) of the OTCA (19 U.S.C. § 3004). As part of the modification process, the U.S. International Trade Commission (“ITC”) is charged with the responsibility of keeping the HTSUS under continuous review and periodically recommending to the President amendments that have been recommended by the World Customs Organization (see above discussion on amending the Harmonized System) or modifications that the ITC believes are necessary or appropriate. See section 1205 of the OTCA (19 U.S.C. § 3005). Additionally, the ITC is charged with the responsibility of compiling and publishing, at appropriate intervals, and keeping up to date, the HTSUS and related materials. See section 1207 of the OTCA (19 U.S.C. § 3007). Pursuant to this responsibility, the ITC periodically issues new editions of the HTSUS (as well as supplements as are necessary).

AVAILABILITY OF THE HTSUS IN PAPERBACK AND CD-ROM

Copies of the HTSUS are available for sale in paperback and on CD-ROM by the U.S. Government Printing Office: <www.gpo.gov>.

AVAILABILITY OF THE HTSUS ON THE INTERNET

The HTSUS is available on the U.S. International Trade Commission's website: <www.usitc.gov> or through a link from the CBP's website: <www.cbp.gov>.

AVAILABILITY OF CLASSIFICATION RULINGS ISSUED BY THE CBP

Administrative classification rulings issued by the CBP under the HTSUS are available free of charge on the CBP's Customs Rulings Online Search System (CROSS) as located on the CBP's website:<www.cbp.gov>.

PRE-IMPORTATION (ADVANCE) CLASSIFICATION RULINGS

As explained in the introduction, it is now the responsibility of the importer of record to classify and value the goods using "reasonable care." In order to meet the reasonable care requirement, a person may seek an administrative ruling from the CBP.

Under Part 177 of title 19 of the Code of Federal Regulations (19 CFR Part 177), interested persons may obtain a binding tariff classification ruling on prospective importations into the United States under chapters 1 through 97 of the HTSUS by submitting a written request to:

Director, National Commodity Specialist Division
U.S. Bureau of Customs & Border Protection
One Penn Plaza, 10th Floor
New York, NY 10119

The ruling will be binding at all ports of entry unless modified or revoked by the CBP's Office of Regulations and Rulings, pursuant to 19 U.S.C. §1625.

Any person intending to export merchandise to the United States or to import merchandise into the United States may seek a pre-importation ruling from the CBP.

The following information must be submitted as part of a pre-importation ruling request:

- The names, addresses and other identifying information of all interested parties (if known) and the manufacturer identification code (if known).
- The name(s) of the port(s) in which the merchandise will be entered (if known).
- A description of the transaction, for example, a prospective importation of (merchandise) from (country).

- A statement that there are, to the best of the exporter's or importer's knowledge, no issues concerning the commodity for which a ruling is sought pending before the CBP (including by any CBP field office or at any port of entry) or before any court (including the U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit).
- A statement indicating whether classification advice has been previously sought from the CBP concerning the commodity for which a ruling is sought, and if so, then from whom and what advice was rendered, if any.

Ruling requests must contain sufficient information to enable the CBP to determine the proper tariff classification of the merchandise. Accordingly, ruling requests should include the following information:

- A complete and detailed written description of the goods. Samples (if practical), list of ingredients and percentages thereof, sketches, diagrams, or other illustrative material should be submitted with the request if useful in supplementing the written description.
- Cost breakdowns of component materials or parts and their respective quantities shown in percentages of the goods, if possible.
- A description of the principal use of the goods, as a class or kind of merchandise, in the United States.
- Information as to the commercial, scientific, technical or common name or designation of the merchandise (or as otherwise may be applicable).
- Any other information or materials that may be pertinent or required for classifying the merchandise.

Individual ruling requests must be limited to a maximum of 5 merchandise items which all must be of the same class or kind (e.g., a request concerning textile articles may not include items such as footwear).

FOIA AND INFORMATION SUBMITTED FOR A RULING REQUEST

As a general rule, no part of a ruling is deemed to constitute privileged or confidential commercial or financial information or trade secrets unless confidentially was requested and granted as provided for in 19 CFR Part 177. Pursuant to 19 U.S.C. § 1625, rulings are published electronically (see below). Information submitted to the CBP as part of a ruling request may be disclosed or withheld in accordance with the provisions of the Freedom of Information Act, as amended. See 5 U.S.C. § 552 and 19 CFR Part 177.

ADMINISTRATIVE REVIEW OF PRE-IMPORTATION RULINGS

A recipient of a pre-importation ruling who disagrees with the decision contained in the ruling may seek an administrative review of the decision from the Director, Commercial Rulings Division, Office of Regulations and Rulings (Mint Annex), U. S. Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. A request for an administrative review of a decision contained in a pre-importation ruling must be in writing and must set forth the basis for disagreement with the decision and provide all information and materials necessary to conduct a proper and complete review.

POST-IMPORTATION REVIEW PROCEDURES

After importation of the merchandise and liquidation of the entry, one may seek an administrative review of a classification decision by the CBP by protesting the decision to the CBP. A protest will result in the decision being internally reviewed by the CBP at a higher level of authority than the level at which the decision was originally rendered. If not satisfied with the decision resulting from a protest, one may seek judicial review of the decision by the United States Court of International Trade (www.cit.uscourts.gov). If not satisfied with the decision by the United States Court of International Trade, one may seek review of the decision through an appeal to the United States Court of Appeals for the Federal Circuit (www.fedcir.gov). Finally, if not satisfied with the decision of the United States Court of Appeals for the Federal Circuit, one may request a review of the decision by the United States Supreme Court (www.supremecourtus.gov), which is the final court of review at the federal level in the United States.

ADDITIONAL INFORMATION

The Internet

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, on June 20, 2001, CBP launched the "Know Before You Go" publication and traveler awareness campaign designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

Customs Regulations

The current edition of *Customs Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound, 2003 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Regulations as of April 1, 2003, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

Customs Bulletin

The *Customs Bulletin and Decisions* ("*Customs Bulletin*") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the *Customs Bulletin*. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing Into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The February 2002 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The February 2002 edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

Informed Compliance Publications

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About:...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA



Visit our Internet web site: <http://www.cbp.gov>