



TARIFF Classification of Goods based on HS 2017



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This Course provides an analysis of the principles of tariff classification based on the **Harmonized Commodity Description and Coding System (HS)** developed by the **World Customs Organisation**. It is designed to actively involve class participation in order to develop a clear understanding of these principles, and to equip participants with the proper techniques to be applied when classifying goods for customs purposes.

The importance of being able to classify goods correctly cannot be over-emphasized as this aspect forms an integral part of customs operations impacting specifically on the area of revenue collection.

The lesson progresses in a very logical sequence by first introducing the subject matter with an overview of the Harmonized System, outlining its history and development before examining its structure and application.

Performance Objectives

On completion of this lesson the course participants will be able to:

- Identify the new features of the Common External Tariff based on the HS 2017 and improve the capacity to classify goods and use the national customs tariff effectively.

(Module 1)

- Establish the proper classification of goods as prescribed under the Harmonized System and determine the correct rate of duty applicable under the relevant national customs tariff. (Module 2)

Enabling Objectives

Module 1

- Provide participants with a General Refresher of the HS
- Explain the reasons for transition from HS 2007 to HS 2017
- Identify the examples of major changes in the HS 2012
- Identify and apply examples of major changes in the HS 2017
- Discuss national breakouts to accommodate policy changes

Module 2

- Introduce the reasons for Tariff Classification
- Understand the vital importance of applying a uniformed nomenclature
- Explain the Legal and Non-Legal Structures of the HS
- Define terms used in the HS
- Discuss and apply the General Interpretive Rules for the systematic and uniform classification of goods.

Course Description

The course focuses on providing participants with the knowledge, skills and ability to explain the structure of the Harmonised System, apply the general interpretative rules for the systematic classification of goods, outline the format of the various schedules of a customs tariff and ascertain the rate of duty applicable in respect of imported goods.

In addition, participants will be introduced to the major changes in the structure and content of the Common External Tariff based on the transition from HS 2007 to HS 2017. The focus will be on the significant adjustments including new HS headings and breakouts required for the introduction of several changes in policy, technology and the patterns of trade.

Design and Content

The lesson has been redesigned to incorporate the features of the HS 2017 into the general explanation of the structure, the general interpretative rules and the system of classifying goods based on the Harmonized (HS) developed by the World Customs Organisation (WCO).

As a result two separate modules will be delivered to the course participants based on need and experience.

Module 1 (6 hours) will deal specifically with the new features of the HS 2017 including new HS headings and breakouts required for the introduction of the new Customs External Tariff. The target group for this module will be individuals who have previously been trained in the Harmonised System including experienced Customs Brokers and Tariff Clerks and Customs Officers.

The modules will include the following topics:

- General Refresher of HS
- Transition from HS 2007 to HS 2017
- Examples of major changes in the HS 2012
- Examples of major changes in the HS 2017
- National Breakouts to accommodate policy changes:
 - Agricultural and fishing inputs
 - Zero rated goods
 - Biodegradable Single Use Plastic Products

Module 2 (20 hours) will provide participants with a full explanation of the Harmonised System including the structure, the general Interpretative rules and a systematic approach to classifying goods. It will be based on the HS 2017 and will target individuals who have not been formally trained in classification of goods.

The module will cover the following topics:

- **Harmonised System Development**
- **Harmonised System Structure**
 - The Legal System
 - The Non Legal System
 - Punctuation
 - Terminology
- **General Interpretative Rules**
- **Invoice Description**
- **Format of the Schedules of the Tariff**
- **Practical Application**

Delivery Approaches and Methods

Sessions will be face to face and will include power point presentations, lectures, class participation, exercises and case studies. Participants will be required to work individually and in groups to complete exercises and case studies throughout the duration of the lesson. Material covered during this course may form part of a final exam.

Module 1

HS 2017 - New Features of Harmonized Commodity Description and Coding Systems

General Refresher of HS

The **Harmonized System** is an international nomenclature for the classification of products. It allows participating countries to classify traded goods on a common basis for customs purposes. At the international level, the Harmonized System (HS) for classifying goods is a six-digit code system¹.

The HS comprises approximately 5,300 article/product descriptions that appear as headings and subheadings, arranged in 99 chapters, grouped in 21 sections. The six digits can be broken down into three parts.

The first two digits (HS-2) identify the chapter the goods are classified in, e.g. 09 = Coffee, Tea, Mate and Spices.

The next two digits (HS-4) identify groupings within that chapter, e.g. 09.02 = Tea, whether or not flavoured. The next two digits (HS-6) are even more specific, e.g. 09.02.10 Green tea (not fermented)... Up to the HS-6 digit level, all countries classify products in the same way (a few exceptions exist where some countries apply old versions of the HS).

The Harmonized System was introduced in 1988 and has been adopted by most of the countries worldwide. It has undergone several changes in the classification of products. These changes are called revisions and entered into force in 1996, 2002, 2007, 2012 and 2017.

¹ <https://unstats.un.org/unsd/tradekb/Knowledgebase/50018/Harmonized-Commodity-Description-andCoding-Systems-HS>

The six-digit numbering system has a logical classification structure supported by Rules of Interpretation, as well as by a network of legal notes, in order to achieve the utmost in uniform classification of goods worldwide.

The units for statistical classification are based on the metric system.

The General Interpretive rules provide the principles on which classification is based.

The schedule of rates, section and chapter notes, and the additional CARICOM guidelines are also an integral part of the classification structure.

CARICOM Additional Note

The 2017 CET of CARICOM introduces an additional rule:

The classification of goods in the Common External Tariff (CET) is determined according to the terms of the General Rules for the Interpretation of the Harmonized System. For the purpose of this Rule the relative Section, Chapter and Subheading Notes, as well as, any related CARICOM Additional Note, must be considered, and only Harmonized System. Subheadings and CET tariff items at the same level may be compared.

The Additional CARICOM Notes have the same legal force as the notes in the HS.

The rates of duty shown in the schedule of rates will be applicable to imports from third countries into member states of CARICOM, as well as to goods traded among member states which do not qualify for Community treatment.

It the light of changes in technology and patterns of international trade, the HS Nomenclature has been amended every four to six years (1988; 1996; 2002; 2007; 2012; 2017). The amendments also include clarification of certain texts in order to facilitate a uniform application and to provide legal certainty with regards to classification decisions taken by the HS committee

Transition from HS 2007 to HS 2017

Up to the beginning of 2019, the Customs Division of Dominica still utilized HS 2007, but efforts are in an advanced stage to implement HS 2017 by April 2019. Dominica would have skipped HS 2012, and graduated from HS 2007 to HS 2017 .However, the changes brought about with HS 2012 will also have an effect in HS 2017.

Examples of major changes in the HS 2012:

- Introduction of new sub-headings for select items in Chapters 7 and 8 to enhance the monitoring of the global food security.
- Items include pigeon peas, plantains, pears, sour cherries, gooseberries, black/white/red currants, and crushed and ground fruits, among others
- New item insertion in HS 20.09 for Cranberry Juice
- New chapter 30 Note 1 (b) to clarify the classification on tablets, chewing gum, and patches intended to assist smokers to stop smoking; HS 21.06 HS 21.06 HS 38.24
- Introduction of new sub-headings in HS 29.03 to cover certain substances to facilitate the monitoring and control of these substances that deplete the ozone layer
- Regrouping of sanitary towels and tampons, napkin and napkin liners for babies and similar articles of any material are now classified in Heading 96.16 (HS 48.18 ; HS 48.18; HS 56.01)
- New subheading Note 1 to Chapter 95 to better define and expand the scope of video game consoles

Amendments to the HS 2017 effective from its implementation April 2019

- Introduction of LED Lamps in HS 85.39
- Introduction of new sub-headings in HS 28.11 and 28.12 to cover Cyanide and Chlorides, to facilitate the collection and comparison of data on the international movement of substances controlled under the chemical weapons convention
- Modification of the structured nomenclature of headings 87.02, 87.03 and 87.11, to reflect the technological changes in the automotive industry to include Hybrid, plugin Hybrid, and all-electric Vehicles

Structure of the HS 2017 for Dominica:

National Breakouts to accommodate policy changes HS 2017 contains 101 breakouts for National purposes broken down as follows:

- ◆ 65 Breakouts for VAT purposes to segregate agricultural and fishing inputs on which VAT is not payable:
 - Pets (cha 1) / live Molluscs (cha 3) / Seeds for sowing (cha 12) / Spray oil (cha 27)
 - Signal flares (cha 36) / Pesticides / Potting mix (cha 38) / Fishing lines / Plastic film Boxes/Egg boxes / Propagation bags / Floats / Poultry spectacles (cha 39) / Cartons (cha 48) / Life jackets (cha 63) / Waterers and feeders (cha 73, 76, 80) /
 - Outboard motors / Winches / (cha 84) / Canoes (cha 89) / Fish finder (cha 90) / Very pistols / Harpoons (cha 93) / Greenhouses (cha 94) / Fishing reels (cha 95)

Zero rated Items

- ◆ 31 other breakouts to segregate items on which a lower or a zero ID rate is charged:
 - Energy drinks (cha 22) / Baby wipes (cha 34) / Safety belts/bandoliers / Safety clothing accessories (cha 42) / Safety vests/ear-muffs (cha 61) / Safety vests/ear muffs (cha 62) / Security equipment (cha 85) / New motor vehicles under five years (cha 87) / Napkins and napkin liners for adults / Sanitary towels and tampons (cha 96)

Biodegradable Single Use Plastic Products

- ◆ There were 5 breakouts effected to segregate and zero rate “Biodegradable Single Use Plastic Products” used in the food industry, while placing a ban on the importation of similar “Non-Biodegradable Products” as of January 1, 2019
 - Single Use Plastic Lids – HS 3923.50.10
 - Single Use Plastic Cups – HS 3923.90.10
 - Single Use Plastic Containers - HS 3923.90.90
 - Disposable Cutlery - HS 3924.10.10
 - Single Use Drinking Straws - HS 3924.20.10

- ◆ Chapters 77 reserved for future use
- ◆ Chapters 98 & 99 reserved for national use

Legal System

It consist of the structure of the HS

It is the basis or foundation for the classification process. It is legally binding

The makeup of the legal structure comprises the following:

- The general interpretive rules
- The Legal Notes (section, chapter, subheading, CARICOM)
- The terms of the Headings & Sub-headings and their related numerical codes

Classification according to the HS:

- 1. General Rules
- a) Section
- b) Chapter
- c) Heading
- d) Sub-heading
- e) Customs Code

Remember, no two subheadings within a heading provide for the same goods: An item is classified under one and only one heading, and one and only one subheading.

Non-Legal System

Most of the problems involved in the use of the HS are essentially questions of interpretation and application of the classification. Users of the HS system may arrive at different decisions concerning the classification of the same product. There are available tools to enable users to refer to the HS in a simple and rapid manner.

These tools make up the “non-legal system of the HS” and comprises the following:

- Titles of section and chapters
- Alphabetical index / classification opinions
- Explanatory notes
- HS classification data base

Though these tools are provided by the HS council, it should be noted that:

- They have no legal status
- They are for ease of reference only
- They only provide needed assistance in the classification process

Refresher on the classification of Machinery:

Two pointers to remember when classifying machines:

- Section XV1 Note 5 states that the expression “machine” means anything, which includes any machine, plant, equipment, apparatus, or appliance cited in the headings of Chapter 84 or 85
- Section XV1 Note 4 states that where a machine (including a combination of machines) consists of individual components (whether separated or interconnected by piping, by transmission devices, by electric cables, or by other devices) intended to contribute together to a clearly defined function covered by a machine in Cha 84 or 85, then the whole falls to be classified in the heading appropriate to that machine

Vehicles:

Vehicles are categorized in four main categories:

- HS 87.01 - Those constructed principally for hauling or pushing another vehicle, appliance or load
- HS 87.02 / 87.03- Those for the transport of persons
- HS 87.04- Those for the transport of goods
- HS 87.05- Vehicles other than those principally designed for the transport of persons or goods

Examples to consider:

- 9 seater Bus
- Wheelchair Buses
- Land Rover Jeeps imported for tourist purposes, able to sit 13 persons
- Roseau Trolley Train
- Double – Cab Pick-up’s
- SUV’s with reinforced chassis able to carry heavy loads
- Panel Vans
- Special Purpose Vehicles:
 - Garbage Trucks fitted with loading and compressing devices
 - Trucks fitted with Cranes (Crane Lorries)
 - Tow Trucks
 - Ambulances / mobile Clinics
 - Motor Homes
 - Cesspool Emptier
 - Pole Erector Crane Truck
 - Classification of a portable Light Tower

Classification of Parts and Accessories:

Parts become more prevalent in the HS from Section XVI which covers two Chapters (84 and 85), and in order to properly classify parts in Section XVI you must familiarize yourself with the following:

Definition of Parts:

Throughout the HS, the criteria for “parts” must fulfill the following provisions:

- Parts cannot be used on their own; or
- They must be combined with other articles to be used; or
- They are an integral, constituent, or component part without which the article could not function; or
- They lend to the safe and efficient operation of the article; and
- They are identifiable by shape or other characteristics as being an article solely or principally used as a part

Definition of Accessories:

Throughout the HS, the criteria for “accessories” must fulfill the following provisions:

- Accessories may facilitate use or handling; or
- They may widen the range of uses of the main article; or
- They may improve the operation of the main article; and
- They are not needed to enable the goods with which they are used to fulfill their intended function; and
- They are identifiable as being intended solely or principally for use with a specific article

“Parts of General Use” Sec XV (Chapters 72 – 83)

Throughout the HS, the expression “parts of general use” means:

Articles of heading **73.07, 73.12, 73.15, 73.17** or **73.18** and similar articles of other base metal [Sec XV note 3]

Springs and leaves for springs (**73.20**), of base metal, other than clock or watch springs heading (**91.14**)

Articles of heading **83.01, 83.02, 83.08, 83.10** and frames and mirrors, of base metal, of heading **83.06**

Articles of leather or composition leather or fur skin (heading **42.05/43.03**) of a kind used in machinery or mechanical appliances or for other technical uses

Transmission or conveyor belts of textile material (heading **59.10**) or other articles of textile material for technical uses (heading **59.11**)

Sec XVI note 1

- Section XVI does not cover parts of general use as defined in note 2 to section XV of base metal or similar goods of plastics (chapter 39)
- Transmission or conveyor belts (cha 39 & 40)
- Articles of a kind used in machinery or mechanical or electrical appliances or for other technical uses of vulcanized rubber(40.16)
- Brushes of a kind used as parts of machines (96.03)
- Articles of chapter 82 and 83 drill bits

- Articles of chapter 90 digital camera zoom lens
- Articles of chapter 91 panel clock
- Typewriter or similar ribbons whether on spool or on cartridges classified according to material or heading 96.12
- Articles of chapter 95
- Articles of section XVII parts of road motor vehicles of HS heading 84.83

“Parts” (Section note 2) Sec XVI (Chapters 84 – 85)

Subject to note 1 to Sec-16, note 1 to Cha-84 & note 1 to Cha 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:

Parts which are goods included in any of the headings of chapter 84 or 85 (other than heading 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48, are in all cases to be classified in their respective headings.

Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines with the same heading (including machines of 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.39, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29, or 85.38

Conclusion

The HS Nomenclature includes the general rules for interpretation of the HS, the Section, Chapter and Subheading Notes, the Additional CARICOM Notes, and the text of the headings and subheadings and their related numerical codes and they alone form the nomenclature of the HS.

Module 2

Harmonized Commodity Description and Coding Systems (HS)

Part One -

This module will be covered in two parts:

- Part One – The Harmonized System (HS)
- Part Two – The General Interpretive Rules

Harmonised System Development

The “Harmonized Commodity Description and Coding System”(HS) of tariff nomenclature is an internationally standardized system of names and numbers for classifying traded products.

The HS is maintained by the WCO, an independent intergovernmental organization with over 179 member countries based in Brussels, Belgium.

The Harmonized Commodity Description and Coding System (HS) is one of the most successful instruments developed by the WCO. It is a nomenclature covering a wide range of commodities.

The collection of accurate customs duties depends on the proper classification of these commodities. It contains a series of provisions and rules aimed at insuring its uniform interpretation and application with a view to facilitate customs and international trade.

In the light of changes in technology and patterns of international trade, the HS Nomenclature is amended every four to six years.

The amendments also include clarification of certain texts in order to facilitate a uniform application and to provide legal certainty with regards to classification decisions taken by the HS committee.

Development of Classification Systems:

1913 - 1st international Nomenclature signed in Brussels by 29 countries

1931 - The Geneva Nomenclature

1938 - Standard International Trade Statistics (SITC)

1975 - Customs Co-operation Council Nomenclature (CCCN)

The first goods classification systems were simple and difficulties appeared with globalization:

Most countries had adopted their own goods classification systems which was identified as a major barrier to trade.

The HS was born out of a pressing need for a standard international customs nomenclature as there were fundamental differences in the goods nomenclatures of various countries:

The HS entered into force on 1st January, 1988.

It is used by over 200 countries and classifies over 98% of world trade:

As far as possible the HS is:

Simple - accessible to both the general public and technical experts

Precise - adopts the most appropriate tariff heading for each commodity

Rigorous - in application to ensure that the same item is classified in an identical manner by all users

Structure of the Harmonized System:

Arrangement of the HS:

Goods are arranged in the HS in order of their degree of manufacture. The more processed, the higher the heading and sub-heading:

The arrangement of the chapters is historical, thus the chapters covering mechanical appliances were gradually added as industry developed, explaining their position at the end of the tariff.

A. Raw materials / Natural goods

B. Un-worked products

C. Semi-finished products

D. Finished products

However there is a logical progression within the nomenclature:

- Fabrics before clothes / Metals before machines

Headings covering related products are grouped into chapters

Chapters covering related products are grouped into sections

- ✓ **21 Sections**
- ✓ **Chapters 1-99**
- ✓ **1244 Headings**
- ✓ **5224 Sub-headings**
- ✓ **Chapters 77 reserved for future use**
- ✓ **Chapters 98 & 99 reserved for national use**

- The HS is structured along two main principles:
- The Legal System and the Non-Legal System.
- Other factors that deserve consideration: Punctuation and Terminology

Legal System of the HS

- It consist of the structure of the HS
- It is the basis or foundation for the classification process
- It is legally binding

The legal structure comprises the following:

- The General Interpretive Rules
- The Legal Notes (section, chapter, subheading)
- The terms of the Headings & Sub-headings and their related numerical codes

The General Interpretive Rules (GIRs)

- ✓ To ensure uniform legal interpretation of the HS, the general interpretive rules have been established
- ✓ They set out certain principles to render the application of the HS coherent and simpler
- ✓ The proper classification of goods in the HS requires a comprehensive understanding of its General Interpretive Rules

There are six such rules, the first four are general in application and must be applied in the order in which they are presented (rule one, before rule two, before rule three etc)

- Rules 1 – 4 (identical to CCCN rules)
- Rules 5 & 6 (new rules and stand on their own)

The Legal Notes

- ✓ These notes form an integral part of the HS system and are legally binding.
- ✓ They are essential for classification.
- ✓ There are 3 levels of legal notes:
 - o Section Notes (note 1 to section 1)
 - o Chapter Notes (note 1 to section 1)
 - o Sub-heading Notes (sub-heading note 2 to chapter 71)

The legal notes are located at the beginning of each section or chapter to which they relate. Not all sections and chapters contain legal notes: e.g. - Section III & V has no section notes.

Chapter 53 has no chapter notes.

The purpose of the legal notes are to ensure that a given product is always classified in one and the same heading or sub-heading to the exclusion of any others which might appear to merit consideration. The legal notes directs the user to the appropriate section, chapter, heading or subheading by defining the scope or limits of a heading or sub-heading and providing a listing of goods excluded / included from a particular section, chapter, heading or sub-heading (notes of exclusion/notes of inclusion)

Classification of Goods according to the HS:

Goods must be classified on a step by step basis in the HS, so in every case a product must first be classified:

- 1) in its appropriate 4-digit heading
- 2) then in its appropriate 1-dash (5th digit 1 – 9)
- 3) sub-heading and, only thereafter
- 4) in its appropriate 2-dash subheading (6th digit 1 – 9)

Example – classification of a USB Flash Drive

- 1) 85.23 – media for the recording of sound or other phenomena:
- 2) 8523.50.00 – semi-conductor media:
- 3) 8523.51.00 – solid state storage
- 4) 8523.51.10 - (USB Flash Drives)

This classification process must be carried out without exception for each step, with no account being taken of the terms of any subdivisions.

Classification according to the HS:

- ✓ Firstly, before classification, you must take note of the following:
 - ✓ - What is it?
 - ✓ - What material or substance is it made of?
 - ✓ - What are its function or use?
 - ✓ - In what form is it usually imported?
 - ✓ - Is this the only possible classification?
- ✓ Then, you find the chapter(s) for the product to be classified –

Then check the:

- o General Rules
- o Section Notes
- o Chapter Notes

✓ *Then proceed to identify:*

- o Heading
- o Sub-heading
- o Customs Code

HS Headings

- ✓ Individual chapters are divided into specific headings which relate to the goods of that chapter
- ✓ Headings are numbered in sequential order
- ✓ Headings exhaust the items covered by a chapter
- ✓ The texts of the headings are in heavy bold type
- ✓ The text at the heading level are uniform internationally
- ✓ Each heading of the HS is identified by a four (4) digit code
- ✓ The first two digits of the code indicate the chapter wherein the heading appears
- ✓ The latter two digits indicate the position of the heading in the chapter:

Example – 07 denotes (chapter 7) - edible vegetables and certain roots and tubers
 - 07.13 dried leguminous vegetables, shelled, whether or not skinned or split

HS Sub-Headings

Apart from approximately 312 headings out of the 1244, the remaining 932 headings are subdivided into several subheadings:

The absence of subheadings is indicated by two zeros - e.g. 4801.00 [newsprint]

Subdivisions of a heading are done methodically and systematically in accordance with specific guidelines and a specific numbering system:

Example – 01.04 [live sheep and goats]

0104.10 [sheep]:
0104.10.10 [for breeding]
0104.10.20 [for rearing]
0104.10.90 [other]
0104.20 [goats]:
0104.20.10 [for breeding] etc

These subdivisions are known as breakouts which may either be:

- o 1 dash (-) first level subheading identified by a five digit code (e.g. HS 0713.30 – Beans)
- o 2 dash (--) second level subheading identified by a six digit code (e.g. HS 0713.32 – Small red beans)

The purpose of the subheadings are to breakdown and provide more detail about the items named in the heading:

- o Subheadings must exhaust the heading from which they are derived
- o No two subheadings within a heading provide for the same goods:
- o An item is classified under one and only one heading, and one and only one subheading
- o The text at the subheading level (6 digits) are also uniform internationally:
- o NB – provisions are made under the terms of article 3 of the HS for contracting parties to establish additional subdivisions to cater for goods which are not given separated status under the HS

This option has been used extensively in the structure of the common external tariff of the Caribbean Community but with a number of variations:

e.g. – [D/ca in 2006 for VAT purposes]

HS 4819.10 (4819.10.10 / 4819.10.90)
HS 3916.10 (3916.10.10 / 3916.10.90)

The text at the eight digit subheading level are uniform regionally in the structure of the Common External Tariff (CET), while the text at the ten digit level are utilized for national tariffs

Each contracting party to the HS undertakes to:

- 1) Use all the headings and subheadings without addition or modification together with their related numerical codes
- 2) Apply the general rules and the legal notes
- 3) Follow the numerical sequence of the HS

Non-Legal System of the HS

Most of the problems involved in the use of the HS are essentially questions of interpretation and application of the classification.

Users of the HS system may arrive at different decisions concerning the classification of the same product.

There are available tools to enable users to refer to the HS in a simple and rapid manner. These tools make up the “non-legal system of the HS” and comprises the following:

- Titles of section and chapters
- Alphabetical index / classification opinions
- Explanatory notes
- HS classification data base

Titles of section and chapters:

General interpretive rule #1 provides the basis for exclusion from the legal system and for use as reference only

- ✓ They are only pointers or labels used to divide up the nomenclature
- ✓ They help in directing you in areas of the nomenclature
- ✓ They have **no legal standing**

- Titles of section and chapters:

Example – chapter 39 (plastics and articles thereof however a plastic chair would be best classified in chapter 94

Alphabetical Index:

To facilitate the location of references in the HS to products mentioned therein and the headings/subheadings in which that article is cited available in two volumes.

Classification Opinions:

The compendium of classification opinions contain a list of some of the more difficult classification decisions taken by the HS committee in detailed description

Explanatory Notes: (available in four volumes)

These EN's notes provide detailed additional information and definitions, and offer direction in interpreting the headings and subheadings to ensure proper interpretation of the HS.

The courts have consistently followed the EN's for guidance especially when they are persuasive and specifically include or exclude an item from a tariff heading.

Data Bases:

The HS commodity electronic Data Base provides the HS classification of over 200,000 commodities commonly traded. Other Data Bases, especially from customs organisations can also be very useful.

e.g. - CROSS

Though these tools are provided by the HS council, it should be noted that:

- 1) They have no legal status
- 2) They are for ease of reference only
- 3) They only provide needed assistance in the classification process

Punctuation

Punctuation is also essential for determining the correct classification of a product:

They play an important role by providing grammatical rules for reading and understanding the text of the HS tariff.

The use of the comma (,) –

- The comma separates items of a list or sets of descriptors e.g. – 42.02 [Trunks, suitcases, vanity-cases, executive cases, briefcases....]
- 41.15 [Composition leather with a basis of leather or leather fibre, in slabs sheets or strip, whether]

The use of the semi-colon (;)

- The semi-colon is used to denote a full stop. It separates portions of a classification number into independent units
- Always read what is before and after the semi-colon as separate items to ensure proper classification

Example

49.07 – Unused postage, revenue or similar stamps; stamp impressed paper; bank notes; cheque forms; share or bond certificates

The use of the semi-colon essentially divides this heading 49.07 into five separate parts

The use of the colon (:)

- The colon is used to indicate that there is a list to follow. In the HS tariff it alerts us to the fact that further subdivisions have been made

Example

84.06 – Steam turbines and other vapour...

8406.10 – Turbines:

8406.11 – For marine propulsion

8406.19 – Other

The use of the period (.)

The period indicates the end of the descriptive text accompanying the heading or subheading

Example

42.03 – Articles of apparel and clothing of leather and of composition leather.

Only those articles described therein can be classified under the terms of that heading

Terminology

The use of key words “And” and “Or”

The word “And” is used to add further descriptions and conditions

Example

64.03 – Footwear with outer soles of rubber, plastic, leather or composition leather and uppers of leather

The word “and” adds the condition that the uppers of the footwear be composed of leather

The word “Or” is used to offer alternatives

Example

64.03 – Footwear with outer soles of rubber, plastic, leather or composition leather and uppers of leather.

The word “or” offers alternatives in that footwear classifiable in the heading may have soles of rubber, plastic, leather or composition leather.

The use of key terms in the HS:

“Principal use” – the use that exceeds any other single use of the article [heading 87.03, 87.05]

“Chief weight” – dominant weight of a mixture

Chief weight is of particular importance with regards to textiles and metals [sec 16, note 2]

“Mutatis mutandis” – the substitution of new terms or articles [explanatory notes 21.01]

“Prima facie” – a phrase which means “on the face of it” as it appears to be [interpretive rule 3]

“Inter alia” – whenever used, this term means “among other things” [cha 42, note 3]

“Throughout the nomenclature” [note 3, cha 41]

A frequently used term in the legal notes which means that the phrase or expression to which the note refers is applicable throughout the tariff

“Except where the context otherwise requires”

An expression which refers to “except where the wording of a particular text indicates otherwise” [section 1, notes 1 & 2]

“Subject to” – stating the controlling provision to be consistent with [Sec XVI, note 2]

“Essential character”

Rule 3b provides for the classification of certain goods “as if they consisted of the material or component which gives them their essential character”

Some criteria to be used when applying this concept:

- ✓ Bulk
- ✓ Quantity
- ✓ Quality
- ✓ Weight
- ✓ Value

Their role in relation to the use of the goods.

“Sets”

Goods put up in sets for retail sale are to be classified according to the material or article which gives the set its essential character.

To be considered a set, the goods must:

1. Consist of at least two different articles classifiable in two different headings

Example – craft kit:

- Dolls heading - 95.02 / 95.03???
- Scissors heading - 85.13
- Flash Cards heading - 49.11
- Paper heading - 48.23
- Paint heading - 32.13
- Paint Brush - heading 96.03

2. Consist of articles put up together to meet a particular need or activity

Example – survival kit

Kit containing articles which can assist in the sustenance of life in difficult situations

3. Must be put up in a manner suitable for retail sale

The following are not regarded as sets:

“Goods not packed in a manner suitable for retail sale”

Example – furniture sets / massage tub with pump

“Materials / articles packaged together to be mixed to create a specific good”

Example – adhesives consisting of resin and hardener packaged together HS 35.06

“Parts”

Throughout the HS, the criteria for “parts” must fulfill the following provisions:

- a. Parts cannot be used on their own; or
- b. They must be combined with other articles to be used; or
- c. They are an integral, constituent, or component part without which the article could not function; or
- d. They lend to the safe and efficient operation of the article; and
- e. They are identifiable by shape or other characteristics as being an article solely or principally used as a part

“Accessories”

Throughout the HS, the criteria for “accessories” must fulfill the following provisions:

- a. Accessories may facilitate use or handling; or
- b. They may widen the range of uses of the main article; or
- c. They may improve the operation of the main article; and
- d. they are not needed to enable the goods with which they are used to fulfill their intended function; and
- e. They are identifiable as being intended solely or principally for use with a specific article

“Parts of General Use” Sec XV (Chapters 72 – 83)

Throughout the HS, the expression “parts of general use” means:

- Articles of heading **73.07, 73.12, 73.15, 73.17** or **73.18** and similar articles of other base metal [Sec XV note 3]
- Springs and leaves for springs (**73.20**), of base metal, other than clock or watch springs heading (**91.14**)
- Articles of heading **83.01, 83.02, 83.08, 83.10** and frames and mirrors, of base metal, of heading **83.06**
- Articles of leather or composition leather or fur skin (**heading 42.05/43.03**) of a kind used in machinery or mechanical appliances or for other technical uses
- Transmission or conveyor belts of textile material (**heading 59.10**) or other articles of textile material for technical uses (**heading 59.11**)

Sec XVI note 1

- Section XVI does not cover parts of general use as defined in note 2 to section XV of base metal or similar goods of plastics (chapter 39)
- Transmission or conveyor belts (cha 39 & 40)
- Articles of a kind used in machinery or mechanical or electrical appliances or for other technical uses of vulcanized rubber(40.16)
- Brushes of a kind used as parts of machines (96.03)
- Articles of chapter 82 and 83 drill bits
- Articles of chapter 90 digital camera zoom lens
- Articles of chapter 91panel clock
- Typewriter or similar ribbons whether on spool or on cartridges classified according to material or heading 96.12

- Articles of chapter 95
- Articles of section XVII parts of road motor vehicles of HS heading 84.83

“Parts” (Section note 2) Sec XVI (Chapters 84 – 85)

Subject to note 1 to Sec-16, note 1 to Cha-84 & note 1 to Cha 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:

Parts which are goods included in any of the headings of chapter 84 or 85 (other than heading 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48, are in all cases to be classified in their respective headings.

Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines with the same heading (including machines of 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.39, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29, or 85.38

In chapters 73 to 76 and 78 to 82,(but not in heading 73.15), references to parts of goods do not include references to parts of general use.

For the purposes of chapter 83, parts of base metal are classified with their parent articles with the exception of headings 73.12, 73.15, 73.17, 73.18 or 73.20, or similar articles of other base metal (chapters 74 to 81) which are not to be taken as parts of articles of this chapter

Section note 3

References in chapters 86 to 88 to parts or accessories do not apply to those which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings, is to be classified under that heading which corresponds to the principal use of that part or accessory

Example –

Parts and accessories of air-cushioned vehicles are classified in the same way as those of vehicles of the heading in which the air-cushioned vehicles are classified under the provisions of the section notes 5(a), 5(b) and 5(c)

NB – there is no accommodation for “parts” or “accessories” in chapter 89. The above classified according to constituent material.

Summary

The HS Nomenclature includes the general rules for interpretation of the HS, the Section, Chapter and Subheading Notes, and the headings and subheadings:

Each heading is identified by four digits, the first two indicating the chapter number and the second two the numeral order in which the heading appears within that chapter.

The following:

- General interpretive rules
- Section, chapter and subheading notes
- Texts of the headings and subheadings and their related numerical codes and they alone, form the nomenclature of the Harmonized System

The heading numbers are shown in the first column

The second column contains the six digit (subheading codes) of the HS

The third column contains the texts of the headings in heavy (bold) type and the text of the smaller headings in smaller type.

PART TWO: The General Interpretive Rules (GIR's)

The HS Nomenclature sets out in systematic form, all the goods that are dealt with in international trade. It groups these goods in sections, chapters, headings and subheadings indicating, as concisely as possible, the categories or types of goods they cover.

In many cases, the variety and number of goods that appear to be classified in a section, chapter, heading and subheading are endless.

To ensure that products can simply and clearly be classified under the Harmonized System, the HS incorporates a set of six rules upon which the system is based.

A thorough understanding of these rules are necessary for the proper classification of goods in the HS

Legal Status:

- They form an integral part of the legal framework of the HS
- They establish the basic principles for the classification process
- They are designed for uniform interpretation and application

In every instance, the rules should be quoted to support classification.

Example – goods classified by application of Rule 1, Rule 2(a), 2(b), 3(a), 3(b), 3(c) etc.

Six general interpretive rules:

(Rules #'s 1 TO 4)

- General in application
- performed at the heading level
- must be used in sequence in the order in which they are presented
[i.e. rule 1 before rule 2 before rule 3 etc]

(Rule # 5)

- New rule applied at the heading level
- Specifically deals with containers and packing
- In contrast to rules 1 to 4, rule 5 is not applied in sequence (it stands on its own)

(Rule # 6)

- New rule applied at the subheading level
- stands on its own
- The first 5 rules for general interpretation of the HS apply at the heading or four digit level, while rule six relates to the classification of goods at the subheading or six digit level

GIR 1

“The titles of sections and 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”

- ✓ The most important of all the rules
- ✓ Accounts for approx. 80% of goods being classified
- ✓ 3) Specifies the legal elements to be considered when classifying goods

Rule 1 can be broken down into 3 parts:

- Firstly, it begins by establishing that the section / chapter titles are provided for ease of reference only, and have no legal bearing on the classification of goods
- Titles of section and chapters:
 - are found at the beginning of each section, chapter and sub-chapter
 - provide a broad description of the type of goods covered by the section and chapters
 - direct a user as to where a particular commodity or good to be classified is likely to be found
 - do not have any legal force
- The first consideration of rule one gives a clear indication that the classification of a product cannot be determined by the titles of sections or chapters
- The second consideration of rule 1 states that Classification of products is determined by the following:
 - The wording of the text of the heading
 - Any relevant legal notes [section / chapter]

It will not always be possible to arrive at a single and correct classification by using the text of the heading and legal notes. In some instances, we may find a number of classifications which seem equally applicable. In these cases, the last provision of rule 1 will be applied only if the text of the heading and the notes do not give you an exact classification

- The third consideration of rule one states that when it is not possible for classification to be determined by the terms of the heading and any relative section or chapter notes, then, it shall be determined according to the following provisions of the general interpretive rules (rules 2 to 6)

GIR 2

Rule 2(a)

“Any reference in a heading to an article shall be taken to include to that article incomplete or unfinished, provided that, as presented, the incomplete or finished article has the essential character of the complete or finished article.

It shall also be taken to include a reference to that article complete or finished presented unassembled or disassembled”

1. Outlines the principles for the classification of incomplete or unfinished articles, and
2. Outlines the principles for the classification of unassembled or disassembled articles.

This is achieved by extending the scope of the heading beyond the text of the heading. The rule allows incomplete, unfinished, unassembled and disassembled goods being recognizable or identifiable as the complete or finished product, to be classified under the heading of the finished article.

This rule does not normally apply to the following sections:

- Sec 1** – animals and animal products
- Sec 2** – vegetable products
- Sec 3** – fats, oils and waxes
- Sec 4** – foodstuffs and beverages
- Sec 5** – mineral products
- Sec 6** – chemical products

This rule applies with greater frequency in the case of the following sections:

- Sec 16** – electrical equipment & machinery
- Sec 17** – vehicles, aircrafts and vessels
- Sec 18** – clocks and watches
- Sec 19** – arms and ammunition
- Sec 20** – miscellaneous manufactured articles

Examples:

- Vehicle without wheels [Incomplete]
- Repaired vehicle not yet sprayed (painted) [unfinished]
- Bicycle shipped in parts [unassembled / disassembled]

For rule 2(a) to be applied, the following conditions must be achieved:

1. The articles in their state must have the essential character of the finished article
e.g. model toys

As a general principle, blanks, which are articles not ready for direct use having the approximate shape or outline of the finished article or part, and which can only be used for completion into the finished article or part, are regarded as incomplete or unfinished articles classifiable in the same heading as the complete article, unless they are specifically referred to in a given heading e.g. HS 45.02 & 45.03

2. The text of the heading or the legal notes do not exclude the goods

Examples – HS 91.08 & 91.09 = “watch and clock movements complete and assembled”

3 – The process involved in the assembly constitutes:

In general, unassembled or disassembled goods need only be assembled by means of simple fixing devices, e.g. screws, nuts, bolts, or by such processes as riveting or welding. If major assembly operations are involved, the goods would be classified as individual parts.

Rule 2(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 three”

There are three aspects to rule 2(b), firstly:

“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”

Examples: HS 44.09 - wood treated and stained

HS 04.01 - milk with added vitamins and flavouring

The second aspect of rule 2(b):

“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”

Examples: HS 42.03 - leather gloves with textile fabric

HS 44.03 - cork board with wooden frame

In summary, the first two aspects of rule 2(b) covers the following:

- *extends any heading referring to a material or substance to include mixtures with other materials or substances*
- *extends any heading relative to goods of a given material or substance to include goods consisting partly of that material or substance*

The first two aspects of rule 2(b) will only be applied if:

The additional material do not change the essential character of the goods AND text of heading or legal notes do not exclude the goods.

The third aspect of rule 2(b) deals with goods apparently classifiable in more than one heading and the rules for determining which heading is correct.

“The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3”.

GIR 3

Rule 3 provides three methods by which goods are to be classified if the said goods could be classified in more than one heading

- 1) By the most specific description [rule 3(a)]
- 2) By essential character [rule 3(b)]
- 3) By the heading which occurs last in numerical order [rule 3(c)]

These 3 methods must be followed in order

Rule 3 is only applicable when the terms of the heading or section or chapter notes do not provide for the goods

Example – if the principle of the specific rule applies, then you do not have to go any further.

Rule 3(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 even if one of them gives a more complete or precise description.

Rule 3(a) Analysis

Where an article is mentioned in more than one heading, the article shall be classified in the heading which provides the most specific description.

It cannot be applied for the classification of mixtures, sets of different articles put up for retail sale or composite goods consisting of different materials or made up of different components simply because in the case of the above mentioned goods, each heading would be regarded as equally specific. Move on to the next rule.

Rule 3(a)

Firstly, this rule sets out two principles of specific description:

- 1) A description by name is more specific than a description by class
- 2) If the text of a heading provides a more accurate and complete description, the goods should be classified under that heading

A description by name is more specific than a description by class:

Example – [electric shavers]

- HS 84.67 [tools for working in the hand with motor] x
- HS 85.09 [electro-mechanical domestic appliances for working in hand with motor] x
- HS 85.10 [shavers and hair clippers with motor]

The text of a heading providing a more accurate and complete description:

Example – glass windscreen

- HS 70.07 [safety glass, consisting of toughened or laminated glass]?
- HS 87.08 [parts and accessories of vehicles heading 87.01 to 87.08]?
- Heading #70.07 more specifically describes the goods in question

Secondly, the rule establishes that if two or more headings refer to part only of mixed or composite goods such as a mixture of two or more textile materials or an ornament of 50% glass and 50% metal, or to part only of sets put up for retail sale such as a shaving set, the classification is to be determined by rules 3(b) or 3(c)

“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 the criterion is applicable”.

The classification principal of rule 3(b) being that the most essential character rule will only be applied if the following conditions are achieved:

- ✓ Mixtures (more than one heading equally specific)
- ✓ Composite (different components form whole)
- ✓ Composite (components are adapted, complimentary and sold together)
- ✓ Goods in sets for retail sale

Classification will then be determined by the material or component which gives the goods their essential character

- The application of essential character requires examination of certain concepts

The factors which determine essential character will vary depending on the goods – from the nature of the material or component to the bulk, quantity, weight or value of the component to the role of a material or component in relation to its use.

In some cases the legal notes specify the criteria;

Example – section XI, note 2a

In the example above, weight determines the the essential character for textiles classified in those chapters or headings

In cases where the legal notes do not specify the criteria, it will be a matter of interpretation as to what gives the article its essential character and, therefore, determines its classification

Examples –

Mixtures (more than one heading equally specific) woven fabrics of 50% cotton and 50% of polyester –
 HS 52.10 (cotton fabric) HS 55.13 (polyester)

Weight if established will give the woven fabrics in the example above its essential character

Example –

Composite goods consisting of different materials:
 Sanitary ware consisting a combination of plastic and chrome
HS 73.24 (sanitary ware and parts of iron or steel)
HS 39.22 (shower baths and similar sanitary ware of plastics)

Examples –

Composite goods consisting of different components to form a whole **Headrest DVD Player**
Headrest for vehicle with convenient 8 inch DVD/VCD player and television tuner
HS 94.01 (seats and parts thereof)
HS 85.28 (reception apparatus for TV, whether or not incorporating video reproducing.....)

Composite goods consisting of different components that are adapted and sold together

Furniture - *this piece of furniture consists of a wooden table with a mirror adapted and intended to be fitted unto it.*

The mirror and the table may be separated for ease in shipping, but together they form the whole value/bulk a consideration for essential character.

Composite goods consisting of different components that are complimentary and sold together.

Dining Furniture - *this set consists of six chairs, one table, mirror and buffet, intended to be used together*

The dining set though not adapted, complement each other. Quantity, bulk, value considerations for determining essential character

Examples –

Goods in sets for retail sale

Hairdressing set - *this set consists of a pair of electric clippers, scissors, towel, comb, lubricating oil and a plastic case*

The hairdressing set will take the essential character of the electric hair clippers due to consideration of the value.

Examples –

Goods in sets for retail sale –

A pack of cigarettes with matches - *The cigarettes will take the essential character of the set (value)*

A Pack of cigarettes with gold plated lighter - *the gold plated lighter will take the essential character of the set (value)*

Rule 3(c)

Rule 3(c) enables goods to be classified when rules 3(a) and 3(b) cannot be used:

“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”

This is the third method of determining the classification of the goods described in rule 3

Mixtures (more than one heading equally specific)

Mixture of 50% wheat and 50% corn flour

HS 11.01 [flour of wheat]

HS 11.02 [flour of maize (corn)]

The two headings would merit equal consideration. By virtue of rule 3(c), this mixture would be classified under **11.02** (last in numerical order).

Composite goods consisting of different materials

Statuettes of 50% glass and 50% metal

HS 70.18 [statuettes of glass]

HS 83.06 [statuettes of base metal]

The two headings would merit equal consideration. By virtue of rule 3(c), this statuette would be classified under **83.06** (last in numerical order)

Composite goods - ceiling fan with light?

HS 84.14 [fans]

HS 94.05 [lamps and lighting fittings]

Composite goods - Double cab pickup?

HS 87.03 [vehicles designed for transport of persons]

HS 87.04 [vehicles designed for transport of goods]

GIR 4

When you have considered rule 1, 2 and 3 and have decided that they do not apply, you may then consider 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”

New products are often introduced to international trade for which they may not appear to be a precise provision in the HS:

- These goods are classified in the heading which covers similar goods
- Factors which may be taken into consideration to make this determination include description, character or purpose of the product.

Cigarettes of tobacco substitutes such as hemp

1996 HS # 24.02 – (cigars, cheroots, cigarillos and cigarettes of tobacco)

The above could not be classified according to rule 1 because they are not covered by any of the headings of chapter 24, since they are not of tobacco.

Rules 2(a), 2(b), 3(a), 3(b) and 3(c) are also not applicable

This brings us to rule 4 and, on that basis, these products were classified in heading 24.02, which covers cigarettes of tobacco as being more akin.

The HS was later amended to cover these products in heading 24.02, which now reads “cigarettes of tobacco or of tobacco substitutes.

GIR 5

In contrast to rules 1 to 4, rule 5 is not applied in sequence, it stands on its own.

“In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein”

Rule # 5 is a two part rule

Rule 5(a) deals with cases, boxes and similar containers

Rule 5(b) deals with packing materials and packing containers

The rule is only applicable to the goods stated above

Rule # 5 (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 presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith”

According to rule 5(a), cases/containers can be classified with the articles they are designed for if they meet the following criteria:

- 1) They should be specifically shaped or fitted and designed to accommodate the article for which they are intended, and do not have other uses
- 2) They should be suitable for long-term use designed to have durability comparable to that of the goods for which they are intended, and able to protect
- 3) They should be presented with the articles for which they are intended, whether or not the articles are packed separately
- 4) They should be of a kind normally sold with article

Examples –

Musical instrument cases/boxes/bags, electric shaver cases, gun cases, binocular cases, telescope cases etc

Rule 5(a) does not apply to the following:

Containers which are very expensive in relation to their contents, and are not normally sold with the contents. **Example – gold cigarette cases**

Containers which give the whole or set its essential character even if they are normally sold with their contents. **Example – lipstick in diamond case**

These containers and their contents are to be classified in their appropriate headings, which is the heading for the gold cigarette case and the lipstick diamond case.

Containers or cases which are imported separately, that is without their contents are also classified in their own appropriate heading.

For example, binocular cases are classified in the HS heading 42.02, which reads in part “binocular cases” when they are imported on their own.

Rule # 5(b)

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

Rule 5(b) provides for the classification of packing materials or containers. These are classified under the same heading as the goods if they are entered with the goods and are normally used only for packing the goods.

Examples being packing materials such as tins, cardboard boxes and poly-bags

This rule does not apply, however, if the packing materials or containers are clearly for repetitive use:

Example – refillable metal cylinders

It should be noted that the term “suitable for repetitive use” means that the goods will be reused for the same purpose.

Packing material or containers which are clearly “suitable for repetitive use”

Example – metal cylinders for LPG

Packing crates for soft- drinks which are reusable would be classified separately from their contents

Containers which are so constructed so that they also have a use other than their original use are not intended to be classified separately from their contents, **examples –**

GIR 6

“For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, MUTATIS MUTANDIS, to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of the rule, the relative section and chapter notes also apply, unless the context otherwise requires.”

The first five rules for general interpretation of the HS apply at the heading or four digit level.

Rule six relates to the classification of the goods at the subheading or six digit level.

To apply this rule correctly, it must be clearly understood that the classification of any product to its subheading in the HS may only be contemplated after the relative product has already been properly classified in its the temptation to classify directly in what might appear to be the correct subheading without first ensuring that the relevant four digit heading is correct, must be avoided at all times.

Doing so will likely result in an incorrect classification.

After determining the correct heading classification, we then look at the subheadings under that heading.

Rule six then says that rules one to five that were applied at the heading level are now applied at the subheading level.

Therefore, start by using rule one i.e. determine if the goods can be classified by the terms of the subheading and any relative subheading notes. If not, consider each of the rules in order until the goods can be classified.

Example – composite goods consisting of different materials

Rattan furniture consisting 50% rattan and 50% wood

Rattan furniture consisting 30% rattan, 30% wood, 30% glass and 10% metal

HS 9403.80 rattan furniture

HS 9403.60 wooden furniture

Components to form a whole

Combined microwave oven with toaster

HS 8516.50 [microwave ovens] ?

HS 8516.70 [other electro-thermic appliances including toasters] ?

Rule six adds an additional qualification that should be noted when classifying at the subheading level

“That the chapter and section notes be used to classify at the six digit level unless they are contradicted by the subheading notes or texts.

An example of a subheading note that conflicts with a chapter note –

Chapter 71, Note 4(b)

Chapter 71, Subheading Note 2

Chapter note 4(b) defines the term platinum to include iridium, osmium etc, therefore iridium is properly classified in heading 71.06, 71.08, and 71.11

According to subheading note 2, subheadings 7110.11 and 7110.19 are excluded for the classification of iridium.

The “General Interpretive Rules” establish the classification principles which, unless the texts of headings, subheadings or section or chapter notes otherwise require, are applicable throughout the HS.

They clearly provide a step-by-step basis for the classification of goods within the HS, so in every case a product must first be classified to its appropriate four digit heading then to its appropriate subdivision at the next level within that heading and only then to its next subdivision,

Structure of the CET:

The Common External Tariff of the Caribbean Community was established by decision of the Council for Trade and Economic Development (COTED).

The classification structure of the schedule of rates is based on the HS (Fourth Edition 2017)

The units for statistical classification is based on the metric system

The Common External Tariff contains:

- 1) - the List of Abbreviations and Symbols used in the publication
- 2) - the Titles of Sections and Chapters
- 3) - the General Rules for Interpretation of the HS
- 4) - the Schedule of Rates
- 5) - the List of Conditional Duty Exemptions
- 6) - the List of Items Ineligible for Duty Exemption

◆ Reference to the pages of the Schedule of Rates is included in the listing of Sections and Chapters to permit easy identification in the Schedule of Rates.

◆ The GIRs provide the principles on which classification under the System is based and are an integral part of the classification structure of the Schedule of Rates.

◆ The rates of duty shown in the Schedule of Rates will be applicable to imports from third countries into the CARICOM Member States, as well as to goods traded among the Member States which do not qualify for Community treatment.

◆ The List of Conditional Duty Exemptions sets out those goods which, when imported for the purposes stated in the list, may be admitted into Member States free of

import or at a rate which is lower than that set out in the Schedule of Rates, subject always to the approval of the relevant Competent Authority in the Member State.

- ◆ Member States in quantities which are considered adequate to justify the application of tariff protection. These items will not be eligible for the grant of exemption of duty (in whole or in part) where they are imported for use in Industry, Agriculture, Fisheries, Forestry and Mining.
- ◆ Except where the context otherwise requires, per- cent or the symbol %, means percentage of Customs Value (CIF)

Some Definitions

“Classification” means, a process of arriving at a particular heading or sub-heading of a commodity within the HS.

A “Customs Tariff Nomenclature” means a listing of goods for the purpose of levying duties of customs on imported goods.

The “Common External Tariff” (CET) of the Caribbean Community is based on the “Harmonized System”

Why do we use tariff codes?

- Duties and Taxes (collection of revenue)
- Vital tool used for collection of international trade statistics (data collection for import/export statistics)
- Accepted method of identifying commodities for Rules of origin (wrong in classification = wrong in rules of origin)
- Accepted method of identifying commodities for risk Analysis (consignments sent to green / yellow / blue / red lanes determined by HS Categories)
- Why do we use tariff codes ?
- Tariff codes remain a vital element of core customs process areas (controls and procedures) e.g. sanitary and veterinary controls, licensing, anti-dumping and countervailing duties, monitoring prohibitions /restrictions and quotas, among others
- Trade negotiations /agreements (identifying commodities for tariff liberalization and quota-free preferences, scheduling of conditional tariff concessions/exemptions)