

## GENERAL RULES FOR THE INTERPRETATION OF THE HARMONISED SYSTEM

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

1. The 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:
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 presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.
  - (b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.
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.
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.
  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 presented 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 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 is not binding when such packing materials or packing containers are clearly suitable for repetitive use.
  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 and Chapter Notes also apply, unless the context otherwise requires.

#### **THE GENERAL RULES EXPLAINED**

The six General Rules for the Interpretation of the Harmonized System are, in fact, the most important legal text and constitute the backbone of this commodity classification. Whether users realize it or not, all commodities are classified according to these Rules which ensure that a product is classified in only one Heading or Subheading to the exclusions of any other with justifiable legal interpretation. Rules 1 to 5 applies to classification in Headings, while Rule 6 applies to Classification in the Subheading.

These Rules give the framework used to determine the classification of goods presented to a Customs Administration. If the goods cannot be easily determined by using Rule 1 or 2 as described below, then importer or agent usually consult with the National Customs Administration.

Here, we will examine each of the Rules which, it will be shown, are applied in numerical sequence.

## **GENERAL RULES FOR THE INTERPRETATION OF THE HARMONIZED SYSTEM**

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

### **Rule 1**

**The titles of Sections, Chapters and Subchapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the Heading and any relative Section or Chapter Notes and, provided such Headings or Notes do not otherwise require, according to the following provisions.**

This Rule is paramount and takes precedence over all the others. It is likely that over 90% of all goods are classified according to this rather straightforward Rule.

It states that the titles of Sections and Chapters are not part of the legal texts, that is, they have no legal force. As it is practically impossible to list all goods which might fit into a Section or Chapter, the titles are only guidelines which give a general indication of what types of goods are covered, or where specific goods are likely to be located.

It also states that, for legal purposes, classification is determined by the terms of the Headings and of the Legal Notes. In other words, a user must examine all Legal Notes (that is Section Notes, Chapter Notes, Subheading Notes and Additional CARICOM Guidelines (i.e. inclusions, exclusions, definitions, etc.) under a Section or Chapter, then determine the Heading text which give the appropriate description of the goods to be classified. Or, vice versa, after an appropriate Heading text is found, the Legal Notes must be examined to ensure that it is the correct one. This Rule sets the hierarchical order by stating that, If it is not possible to determine with certainty the Heading for a commodity, then classification is effected by applying the other Rules of Interpretation, for example, when two Headings are both equally appropriate classes for the goods.

### **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 presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.**

This Rule essentially states that articles classifiable in a Heading will include those:

- (i) Articles which are incomplete or unfinished but have the essential character of the complete or finished article. For example automobiles without their engines or without wheels belong in 87.03 as automobiles. This part of Rule 2(a) extends to blanks which have been shaped and resemble the finished article, but which are unusable until the article is completed. For example, stainless steel table knife blanks which have the general shape of table knives but which are not completed or sharpened and ready for use belong in 82.11. It is important that the products have the essential shape of the article in question to be regarded as blanks.
- (ii) Unassembled or disassembled articles which are incomplete or unfinished but have the essential character of the complete or finished article. For example, unassembled hunting rifles without the bolt are classified as hunting rifles (93.03).
- (iii) Unassembled or disassembled articles which are complete or finished article. For example, a crate containing unassembled bicycles which have all the parts are classified in 87.12. they would like be presented unassembled for ease of transport. It should be noted that extra parts are to be classified separately. Only the parts necessary to assemble one complete article are to be classified separately. Only the parts necessary to assemble one

**(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 substance. Any reference to goods of a given material or substance shall be taken to include a reference to goods of 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.**

There are three parts to Rule 2(b) which, in fact, extends the scope of a great number of Headings in the Harmonized System.

The first part deals with materials or substances mixed or combined with other materials or substances. A heading which there is reference to a given material or substances will include mixtures or combinations of the material or substance.

The second part deals with goods of a given material or substance. It states that such goods includes those goods consisting wholly or partly of such material or substance.

The third part states that the goods mentioned in the first and second part are classified according to the principles of Rule 3. It is noted that Rule 2(b) does not inform users on how to classify the goods, but merely states that, in such circumstances, Rule 3 applies.

Similar to Rule 2(a), it should also be noted that, if the Heading text or a Legal Notes referring to the Heading specifically exclude or specifically includes mixtures or combinations, then Rule 2(b) can not apply. The goods would therefore be classified in accordance with Rule 1.

Also, if a material or substance when mixed or combined completely changes, or is entirely deprived of its character or nature, or can no longer answers the description as stated in the Heading text, then Rule 2 cannot apply.

### **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:**

This preamble of Rule 3 states that when, because of Rule (b) or for any other reason, goods are, at first sight, classifiable under two or more Headings, then the following three Rules apply. The order of these Rules is important. First, 3(a) is considered, and if that fails, then Rule 3(b) is considered, and if that fails, Rule 3(c) is considered, in that order.

It could be recalled that Rule 1 is paramount, and users must ensure that the terms of Headings or associated Legal Notes do not otherwise require before moving on to Rule 3. So, the text of all appropriate Headings and the Legal Notes (of Sections and Chapters) must always be examined in details.

The Rule of 3(a), 3(b) and 3(c) in summary are:

- Specific description
- Essential character

Numerical order

**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 of the materials or substances contained in the 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.**

Rule 3(a) deals with mainly specific description of the goods. There are two parts to this Rule.

The first part (the first sentence) refers to the Heading texts themselves, and generally does not cover mixed or composite materials or substances nor to items in a set put up for retail sale. A heading which gives a specific description of the goods (the one which comes closest to actually naming the product) will be preferred to a Heading which gives a more general description. In other words, according to this Rule, classification is achieved by giving preference to the Heading which describes the intrinsic characteristics of goods (that is, what they actually consist of) as opposed to a Heading which gives other details, for example, their end use.

Users are usually able to come to a conclusion about which text give more specific description of the goods. However, depending on the product, it can occasionally be very difficult to determine and, following a proper examination of the Headings involved, it might be necessary to proceed to Rule 3(b).

The second part (the second sentence) deals generally with the classification of mixed or composite goods, as well as items in a set put up for retail sale.

If more than one Heading mention only part of the material or substance in a mixed or composite goods, then both are said to be equally specific even if one of them give a more complete or precise description.

The same principle is applied with regard to items in a set put up for retail sale. If more than one Heading refer to one of the items in the set, then those Headings are said to be equally specific even if one of them give a more complete or precise description. Goods in sets put up for retail sale are those which-

- Consist of two or more articles
- Together meet a particular need or carry out a specific activity
- Are put up in a common container or in a manner suitable for sale directly to users without repacking.

All three (3) conditions must be met.

Note that the second part of Rule 3(a) does not state how to classify products when more than one Heading are so regarded as equally specific. Users must proceed to Rule 3(b) It should again be recalled that, as always, Rule 1 is paramount, and users must ensure that the terms of Headings or associated Legal Notes do not otherwise require before moving on to Rule 3(b). So, the texts of all appropriate Headings and the Legal Notes (of Sections and Chapters) must always be examined in detail.

**3(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.**

Rule 3(b) give the classification principle if goods cannot be classified with Rule 3(a). it deals with the essential character of goods.

This Rule only relates to-

- Mixtures
- Composite goods
- Goods put up in sets for retail sales

In all cases, classification is determined according to the material or component which can be regarded as conferring the essential character on the mixture, composite good or set of retail sale, assuming that this criterion can be applied. Essential character will vary depending on the type of good in question. Some of the factors which might determine the essential character of a product are:

- Quantity
- Bulk
- Weight
- Value
- Nature of components
- Role of component

3(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.

Rule 3(c) is used only when Rules 3(a) and 3(b) fail. Here, goods are classified according to the Heading which occurs last in numerical order among those which equally merited consideration. This Rule is used when the Heading which provides the most specific description cannot be determined according to Rule 3(a) or when the essential character cannot be conferred on one component of a set or mixture according to Rule 3(b).

#### **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.**

This Rule is practically never used, and only in cases where classification cannot be achieved by using the previous Rules, which is quite rare. Virtually all products, whether or not new in trade, can be classified according to the other Rules.

Essentially, when using this Rule, two Headings are not being considered as possibilities, and classification is achieved by comparing the goods with similar goods of a Heading, that is, the goods are classified in the same Heading as goods to which they are most akin. Several factors might be taken into account when considering a good's kinship, for example, its general description, its use, and its nature.

Before moving to Rule 4, Customs officers should consult with their supervisors.

### **Rule 5**

**In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein:**

**Rule 5** directs with the classification of containers which are presented with articles.

**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. This Rule does not, however, apply to containers which give the whole its essential character;**

Rule 5(a) essentially covers the classification of containers presented with the articles for which they are intended. Such containers are classified with the articles as long as they-

- Are specifically shaped or fitted to contain specific articles, that is, specifically designed or shaped to accommodate the article
- Are suitable for long term use, e.g., durability
- Are presented with the articles for which they are intended, although although they might be separately packed for convenience of transport
- Are normally sold with such articles
- Do not confer to the whole its essential character

Such containers, when imported alone that is not with the article for which they are intended are classified as containers (usually in 42.02).

If a product is presented with two containers which both meet the criteria to be classified with the article (an importer with a spare container), then one of the containers is classified with the article while the other must be classified separately.

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



Rule 5(b) states that packing material and packing containers are classified with the goods they contain, as long as they are of a kind normally used for packing such goods. However, the Rule is not binding if the packing materials or packing containers are clearly suitable for repetitive use.

### **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 and Chapter Notes also apply, unless the context otherwise requires.**

Rule 6 becomes relevant only after the goods have been classified at the Heading level.

This Rule states that the classification of goods in the Subheading is to be determined according to the terms of those Subheadings and any related Subheading Notes, as well as according to the terms of Rules 1 to 5 above, as long as the necessary changes have been applied (*mutatis mutandis*).

It is important to note that only Subheadings at the same level are to be compared, that is, one-dash Subheadings can only be compared with the one-dash Subheadings under the same Heading, and two-dash Subheadings can only be compared with the other two-dash Subheadings under the same one-dash Subheadings.

In addition, unless the context of the Subheadings otherwise requires, the Section and Chapter Notes also apply to the Subheading.