

Bureau of Customs and Border Protection

General Notices

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.

Washington, DC, October 29, 2003,

The following documents of the Bureau of Customs and Border Protection (“CBP”), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

MICHAEL T. SCHMITZ,
*Assistant Commissioner,
Office of Regulations and Rulings.*

MODIFICATION OF RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF ROUTER BITS

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security

ACTION: Notice of modification of a tariff classification ruling letters and revocation of any treatment relating to the tariff classification of router bits.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying two ruling letters relating to the tariff classification, under the Harmonized Tariff Schedule of the United States, (HTSUS), of router bits. Similarly, Customs is revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed actions was published in the Customs Bulletin on August 13, 2003, Vol. 37 No. 33. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 11, 2004.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, General Classification Branch, at (202) 572-8721.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "informed compliance" and "shared responsibility." These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), a notice was published in the Customs Bulletin on August 13, 2003, proposing to modify HQ 964755 dated December 5, 2001 and HQ 962627, dated September 2, 1999, both of which involved the tariff classification of router bits. No comments were received in response to the notice.

Although in this notice Customs is specifically referring to HQ 964755 and HQ 962627, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision ruling letter (i.e., internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(2)), Customs intends to revoke any treatment previously accorded by Customs to substantially identical

transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUS.

Any person involved in substantially identical transactions should have advised Customs during the comment period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is modifying HQ 964755, HQ 962627 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 966443 (Attachment A) and 966444 (Attachment B). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions that are contrary to the determination set forth in this notice.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

DATED: October 16, 2003

Gerard J. O'Brien Jr. for MYLES B. HARMON,
Director,
Commercial Rulings Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966443

October 16, 2003

CLA-2 RR:CR:GC 966443 RSD

CATEGORY: Classification

TARIFF NO. 8207.70.30

MR. TOMMY HOANG
EMO TRANS L.A.
1100 Hindry Ave.
Los Angeles, CA 90045

RE: HQ 964755 Modified; Router Bits

DEAR MR. HOANG:

On December 5, 2001, Customs Headquarters issued to you on behalf of Ham Technology, HQ 964755. In HQ 964755 Customs held that certain drill bits and router bits for machines used to manufacture printed circuit boards are classifiable in subheading 8207.50.20, Harmonized Tariff Schedule of the United States (HTSUS) and subheading 8207.90.30, HTSUS, respectively. We have reconsidered the classification of the router bits and now believe it is incorrect. This ruling sets forth the correct classification of the router bits.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), a notice was published on August 13, 2003, in the CUSTOMS BULLETIN, Volume 37, Number 33, proposing to modify HQ 964755. No comments were received in response to this notice.

FACTS:

The drill bits and router bits were described in HQ 964755 as for use in the printed circuit board industry and unsuitable for cutting metal. These tools are for drilling and routing machines used in the manufacture of printed circuit boards (PCBs). Since the literature initially provided did not indicate the composition of the cutting part of these drill bits and router bits, you provided safety data sheets on the material from which these bits are made. These sheets confirmed that the tools at issue met the requisite percent by weight of tungsten specified in subheadings 8207.50.20, 8207.90.30, and 8207.70.30, HTSUS.

ISSUE:

Whether the router bits, are classified as milling tools in subheading 8207.70.30, HTSUS, or cutting tools of subheading 8207.90.30, HTSUS?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied. GRI 6 requires that the classification of goods in the subheadings of

headings shall be determined according to the terms of those subheadings, any related subheading notes and, *mutatis mutandis*, to the GRIs.

The HTSUS provisions under consideration are as follows:

- 8207 Interchangeable tools for handtools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screwdriving), including dies for drawing or extruding metal, and rock drilling or earth boring tools; base metal parts thereof:
- 8207.70 Tools for milling, and parts thereof:
- 8207.70.30 With cutting part containing by weight over 0.2 percent of chromium, molybdenum, or tungsten or over 0.1 percent of vanadium
* * * *
- 8207.90 Other interchangeable tools, and parts thereof:
Other:
- 8207.90.30 Cutting tools with cutting part containing by weight over 0.2 percent of chromium, molybdenum, or tungsten or over 0.1 percent of vanadium
* * * *
- 8466 Parts and accessories suitable for use solely or principally with the machines or headings 8456 to 8565, including work or tool holders, self-opening dieheads, dividing heads and other special attachments for machine-tools; tool holders for any type of tool for working in the hand:
Other:
- 8466.92 For machines of heading 8465:
- 8466.92.50 Other
* * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HTSUS and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

In HQ 964755 we classified the router bits for PCBs in subheading 8207.90.30 as other interchangeable tools with cutting part containing 0.2 percent of chromium, molybdenum or tungsten or over 0.1 percent of vanadium. The router bits are used on router machines utilized in the manufacture of PCBs.

In HQ 966199, dated April 18, 2003, Customs Headquarters also examined how router bits should be classified. We pointed out that heading 8207, HTSUS, covers, among other things, interchangeable tools for handtools or

for machine-tools. We noted that goods of heading 8207, HTSUS, are excluded from headings 8465 and 8466, HTSUS, by Section XVI, Note 1(o), HTSUS.

EN 82.07 states in relevant part:

Whereas (apart from a few exceptions such as machine saw blades) the preceding headings of this Chapter apply in the main to hand tools ready for use as they stand or after affixing handles, this heading covers an important group of **tools which are unsuitable for use independently, but are designed to be fitted**, as the case may be, **into**:

* * * *

(B) machine-tools, of headings 84.57 to 84.65, or of heading 84.79 by reason of Note 7 to Chapter 84,

(C) tools of headings 84.67,

for pressing, stamping, punching, tapping, threading, drilling, boring, reaming, broaching, milling, gear-cutting, turning, cutting, morticing or drawing, etc., metals, metal carbides, wood, stone, ebonite, certain plastics or other hard materials, or for screwdriving. [Emphasis in original]

In HQ 966199, we determined that because the router bits at issue were for use in machine-tools of heading 8465, HTSUS, they met this description (i.e., tools which are incapable of use independently but are designed to be fit into machine-tools of heading 8465, HTSUS). Thus, the router bits fell under heading 8207, HTSUS. Consequently, the question that had to be decided was under what subheading within heading 8207, HTSUS, the router bits were classified.

In our discussion in HQ 966199 regarding the classification of the router bits, we pointed out that that in cases involving interchangeable tools, such as the instant case, Customs examines the overall design features of an article to determine its primary function or use. In these instances, the article itself indicates prima facie evidence of the use of the class or kind of good to which it belongs.

The router bits that were the subject of HQ 966199 appeared to be used for routing. Available information indicated that the router bits are of a shank type design with a rotary cutting face. The bits have cutting edges which intermittently engage the workpiece, and which remove material by relative movement of the workpiece and the cutter. The router bits described in HQ 966199 appear to be similar to the router bits in HQ 964755. Such tools are designed to shape, finish, dress or contour surfaces, which indicates milling, (i.e., shaping or finishing by means of a mill or machine). The design of the router bits strongly suggested that they performed a milling function to shape or finish the workpiece. In an effort to determine the principal use of the router bits, Customs communicated with several tool industry representatives and researched Internet sources. These sources indicated that router bits perform routing, which is a type of milling, and that router bits used in metal working and in manufacturing PCBs are similar. Based on the information in the record, we concluded that the router bits belong to the class or kind of interchangeable tools for machine-tools principally used as tools for milling of subheading 8207.70.30, HTSUS.

We explained in HQ 966199 that we classified a similar type of router bits in HQ 964755 under subheading 8207.90.30, HTSUS. The router bits were used on router machines utilized in the manufacture of PCBs. However, we

indicated that this classification was incorrect and that router bits are properly classified under subheading 8207.70.30, HTSUS, as tools for milling. We further indicated that we intended to modify HQ 964755 to reflect this classification of router bits. Therefore, we find that in HQ 964755 the router bits were incorrectly classified in subheading 8207.90.30, HTSUS. In accordance with the analysis set forth in HQ 966199, the router bits are properly classified in subheading 8207.70.30, HTSUS.

HOLDING:

Under the authority of GRI 1, the router bits are provided for in heading 8207, HTSUS. Through application of GRI 6, the router bits are classified under subheading 8207.70.30, HTSUS, as "Interchangeable tools for . . . machine tools: Tools for milling, and parts thereof: With cutting part containing by weight over 0.2 percent of chromium, molybdenum, or tungsten or over 0.1 percent of vanadium."

EFFECT ON OTHER RULINGS:

HQ 964755 dated December 5, 2001, is modified with respect to the router bits. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

Gerard J. O'Brien Jr. for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966444

October 16, 2003

CLA-2 RR:CR:GC 966444 RSD

CATEGORY: Classification

TARIFF NO. 8207.70.30

BEHNAM DAYANIM, ESQ.
SETH SILBER, ESQ.
PAUL, HASTINGS, JANOFSKY & WALKER LLP
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2400

RE: HQ 962627 Modified; Router Bits

DEAR MR. DAYANIM AND MR. SILBER:

This is in regards to a request for a ruling dated February 4, 1999, that you submitted on behalf of Tycom Corporation. In response to this request, on September 2, 1999, Customs Headquarters issued HQ 962627, which was addressed to the Port Director in San Ysidro, California. In HQ 962627 Customs considered the eligibility of imported articles for the preferential duty treatment under the North American Free Trade Agreement (NAFTA), and ruled that certain router bits were classified in subheading 8207.50.20, of the Harmonized Tariff Schedule of the United States (HTSUS). Some of the printed circuit boards cutting tools were processed from rod blanks in

Mexico into router bits. We now believe that the classification of the router bits indicated in HQ 962627 was incorrect. This ruling sets forth the correct classification of the router bits.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), a notice was published on August 13, 2003, in the CUSTOMS BULLETIN, Volume 37, Number 33, proposing to modify HQ 962627. No comments were received in response to this notice.

FACTS:

The facts were set forth in HQ 962627. Tungsten carbide rods of Japanese origin, 1 1/2 or more inches in length, composed of 92% tungsten carbide and 8% cobalt, are imported into the U.S. After importation, the diameters of rods are reduced by grinding from 0.12850 inch to a prefinished diameter of 0.1250 inch, then finish ground to a final diameter of 0.12480 inch. These rods, now referred to in the printed circuit board manufacturing industry as cemented carbide endmill blanks, are ground on one end to achieve a uniform overall length of 1.505 inch, and a linear chamfer is ground onto the other end. The rod blanks are then exported to Mexico and completed there into routers and small-to-large diameter miniature drills for printed circuit boards by forming necks and 0.070-0.440 inch fluted drill ends on the rod blanks' nonchamfered ends and, finally, press fitting a plastic ring at the base of the neck, presumably to facilitate handling. Although HQ 962627 described the subject articles as routers, we believe they are router bits.

ISSUE:

Whether the router bits are classified as milling tools in subheading 8207.70.30 or drilling tools of subheading 8207.50.20, HTSUS.

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related subheading notes and *mutatis mutandis*, to the GRIs.

The HTSUS provisions under consideration are as follows:

* * * *

- | | |
|---------|---|
| 8207 | Interchangeable tools for handtools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching tapping, threading, drilling, boring, broaching, milling, turning or screwdriving), including dies for drawing or extruding metal, and rock drilling or earth boring tools; base metal parts thereof: |
| 8207.50 | Tools for drilling, other than for rock drilling and parts thereof: |

8207.50.20 With cutting part containing by weight over 0.2 per-
cent of chromium molybdenum or tungsten or over 0.1
percent of vanadium

* * * * *

8207.70 Tools for milling, and parts thereof:

8207.70.30 With cutting part containing by weight over 0.2 per-
cent of chromium, molybdenum, or tungsten or over
0.1 percent of vanadium

* * * * *

In HQ 966199, dated April 18, 2003, Customs Headquarters examined how router bits should be classified. We pointed out that heading 8207, HTSUS, covers, among other things, interchangeable tools for handtools or for machine-tools. We noted that goods of heading 8207, HTSUS, are excluded from headings 8465 and 8466, HTSUS, by Section XVI, Note 1(o), HTSUS.

EN 82.07 states in relevant part that for this heading:

Whereas (apart from a few exceptions such as machine saw blades) the preceding headings of this Chapter apply in the main to hand tools ready for use as they stand or after affixing handles, this heading covers an important group of tools which are **unsuitable for use independently, but are designed to be fitted**, as the case may be, **into** (emphasis in original):

* * *

(B) machine-tools, of headings 84.57 to 84.65, or of heading 84.79 by reason of Note 7 to Chapter 84,

(C) tools of headings 84.67,

for pressing, stamping, punching, tapping, threading, drilling, boring, reaming, broaching, milling, gear-cutting, turning, cutting, morticing or drawing, etc., metals, metal carbides, wood, stone, ebonite, certain plastics or other hard materials, or for screwdriving.

We determined that because the router bits at issue, were for use in machine-tools of heading 8465, HTSUS, they met this description (i.e., tools which are incapable of use independently but are designed to be fit into machine-tools of heading 8465, HTSUS). Thus, the router bits fell under heading 8207, HTSUS. Consequently, the question that had to be decided was under what subheading within heading 8207, HTSUS, were the router bits classified.

In determining the correct classification for the router bits, we pointed out that in cases involving interchangeable tools, such as the instant case, Customs examines the overall design features of an article to determine its primary function or use. In these instances, the article itself indicates prima facie evidence of the use of the class or kind of good to which it belongs.

The router bits that were the subject of HQ 966199 appeared to be used for routing. Information available in the case indicated that the router bits were of a shank type design with a rotary cutting face, and cutting edges which intermittently engage the workpiece, and which remove material by

relative movement of the workpiece and the cutter, similar to the router bits in this case. Such tools are designed to shape, finish, dress or contour surfaces, which are indicative of tools used for milling, (i.e., to shape or finish by means of a mill or machine). The design of the router bits strongly suggested that they performed a milling function to shape or finish the workpiece. In an effort to determine the principal use of the router bits, Customs communicated with several tool industry representatives as well as searched Internet sources. These sources indicated that router bits perform routing, which is a type of milling, and that router bits used in metal working and in manufacturing PCBs are similar. Based on an examination of the information that was in contained in the record, as well as information from the industry, we concluded that the router bits belong to the class or kind of interchangeable tools for machine-tools principally used as tools for milling, of subheading 8207.70.30, HTSUS.

In HQ 966199 the router bits were used on router machines and were utilized in the manufacture of PCBs. We determined that the router bits were properly classified under subheading 8207.70.30, HTSUS, as tools for milling. Therefore, the subject router bits are classified in subheading 8207.70.30, HTSUS. The remainder of the analysis set forth HQ 962627, regarding the classification of drills and the eligibility of the imported articles for NAFTA, is unaffected.

HOLDING:

Under the authority of GRI 1, the router bits are provided for in heading 8207, HTSUS. Through application of GRI 6, the router bits are classified under subheading 8207.70.30, HTSUS, as "Interchangeable tools for . . . machine tools; Tools for milling, and parts thereof: With cutting part containing by weight over 0.2 percent of chromium, molybdenum, or tungsten or over 0.1 percent of vanadium."

EFFECT ON OTHER RULINGS:

HQ 962627 dated September 5, 1999 is modified with respect to the router bits. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

Gerard J. O'Brien Jr. for MYLES B. HARMON,
Director,
Commercial Rulings Division.

19 CFR Part 177

**MODIFICATION AND REVOCATION OF RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO TARIFF CLAS-
SIFICATION OF CERTAIN COMPONENT PARTS OF AUTOMO-
TIVE SEAT ADJUSTER ASSEMBLIES**

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of modification and revocation of ruling letters and revocation of treatment relating to the tariff classification of certain

component parts of automotive seat adjuster assemblies under the Harmonized Tariff Schedule of the United States (“HTSUS”).

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying and revoking ruling letters concerning the tariff classification of certain automotive seat adjuster assemblies under the HTSUS. Similarly, Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. Notice of the proposed modifications and revocations was published on August 6, 2003, in Vol. 37, No. 32 of the *Customs Bulletin*. Two comments were received.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 11, 2004.

FOR FURTHER INFORMATION CONTACT: Andrew M. Langreich, General Classification Branch: (202) 572–8776.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community’s responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to Customs obligations, notices proposing modification and revocation of the rulings described below were published on August 6, 2003, in Vol. 37, No. 32 of the *Customs Bulletin*. Two comments—one in reference to Headquarters Ruling Letter (“HQ”)

966036 and the other in reference to New York Ruling Letter (“NY”) H88183—were received in response to these notices.

As stated in the proposed notices, the modification and revocation actions will cover any rulings on this merchandise that may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing databases for rulings other than those herein identified; no further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. § 1625(c)(2)), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer’s reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer’s or Customs previous interpretation of the HTSUS. Any person involved in substantially identical transactions should have advised Customs during this notice period. An importer’s reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by these notices which was not identified in this notice, may raise the rebuttable presumption of lack of reasonable care on the part of the importers or their agents for importations of merchandise subsequent to the effective date of this final decision.

The component articles were previously classified by Customs under heading 8708, HTSUS, as parts of automobiles. Based on the information provided in the instant matters concerning the nature of the articles, the sequence of the manufacturing process of the seat adjuster assemblies and their actual installation in the automobiles, we reconsidered our previously held positions. In the cases at issue, Customs first analyzed the applicability of heading 8302, HTSUS, which provides for parts of general use, and then analyzed the articles in their condition as imported and concluded that the component parts that are not parts of general use are more aptly described as parts of automobile seats than as parts of automobiles. Thus, such articles are classifiable under heading 9401, HTSUS, which provides for, *inter alia*, seats and parts thereof.

As is noted above, two comments were received in response to the notices. One comment questioned, in regard to then proposed HQ 966036, whether the article called the “foot” should be classified under subheading 8302.30, HTSUS, which provides for other mountings, fittings and similar articles suitable for motor vehicles (as it was in NY H88184), rather than as proposed under subheading 8302.42, HTSUS, which provides for other mountings, fittings and

similar articles, other, suitable for furniture. We concluded in NY H88184 that the foot was classified under subheading 8302.30.30, HTSUS, and in light of the comments received, we find no reason to change the conclusion of NY H88184. Thus, the foot will be classified under subheading 8302.30.30, HTSUS, as is discussed in HQ 966036.

The other comment questioned proposed ruling HQ 966001, which pertained to the modification of NY H88183. NY H88183 classified an article described as a "pipe comp" under heading 8708.29.50, HTSUS, as other parts of automobiles. The commenter states (similarly to the comment discussed in the paragraph immediately above) that the pipe comp is classified in subheading 8302.30.30, HTSUS, rather than subheading 8302.42.30, HTSUS, as was proposed. We agree. We find that the pipe comp is described in heading 8302, HTSUS, because it has the indicia of a mounting, fitting or similar article. The description of the pipe comp establishes that it functions to support the overall structure of the completed assembly and serves as an anchor for mounting other components of the assembly as well. Thus, we find that the pipe comp is classified in subheading 8302.30.30, HTSUS, as is discussed in HQ 966001.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is:

1. Modifying NY H88184 and revoking NY H88186, both dated March 4, 2002, and any other ruling not specifically identified, to reflect the proper classification of the component parts of automotive seat adjuster assemblies, pursuant to the analysis in HQ 966036;
2. Modifying HQ 962046 and revoking HQ 961652 and NY 815567 pursuant to the analysis in HQ 966201, HQ 966450 and HQ 966449, respectively;
3. Modifying NY H88185, NY H88183 and NY H88554 pursuant to the analysis in HQ 965970, HQ 966001, and HQ 966113, respectively.

HQs 966036, 966201, 966450, 966449, 965970, 966001 and 966113 are set forth as Attachments to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective sixty (60) days after its publication in the *Customs Bulletin*.

Dated: October 24, 2003

MYLES B. HARMON,
Director,
Commercial Rulings Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966036
October 14, 2003
CLA-2 RR:CR:GC 966036 AML
CATEGORY: Classification
TARIFF Nos.: 8302.30.30; 9401.90.10

MR. JOHN P. SMIRNOW
KATTEN, MUCHIN, ZAVIS AND ROSENMAN
525 West Monroe Street, Suite 1600
Chicago, IL 60661-3693

RE: Modification of NY H88184; Revocation of NY H88186; component parts of automobile seat adjuster assemblies

DEAR MR. SMIRNOW:

This is in reply to your letters of November 5, 2002, and December 20, 2002, on behalf of Imasen Bucyrus Technology, Inc. ("IB Tech"), in which you requested reconsideration of New York Ruling Letters ("NY") H88184 and NY H88186, both of which were issued to a customs broker on behalf of IB Tech on March 4, 2002. Those rulings concern the classification of various component parts of an automotive seat adjuster assembly under the Harmonized Tariff Schedule of the United States ("HTSUS"). In rendering this decision, we also considered your arguments made during a conference call held on January 30, 2003 and in a supplemental submission dated February 26, 2003.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of NY H88184 and revocation NY H88186, as described below, was published in the *Customs Bulletin* on August 6, 2003. One comment was received with respect to the modification of NY H88184.

FACTS:

We described the articles (those specified in your reconsideration request) in NY H88184 as follows:

The . . . "FOOT", is a stamped metal bracket, used to secure and attach the Full Seat Device to the automobile floor. It has pre-drilled holes for bolts. The Foot is secured to the bottom of the Full Seat Device on one end (to the bottom of the lower slide rail), and to the automobile floor on the other. You state that the Foot is specifically designed for and used solely with automobile seats.

* * *

The . . . "DAMPER", is a bushing made of hard rubber used in the Full Seat Device to protect moving metal parts within the Full Seat Device. It is placed over a power transmission arm of the electric motor used for seat position adjustment. It functions to protect the (metal) transmission arm of the motor from making direct contact with the (metal) shaft of the Full Seat Device, thus preventing damage. You state

that the Damper is specifically designed for and used solely with the automobile seat models for which it is designed.

We concluded in NY H88184 that the foot was classified under subheading 8302.30.30, HTSUS, which provides for base metal mountings, fittings and similar articles, and that the damper was classified under subheading 8708.29.50, HTSUS, which provides for parts and accessories of bodies of the motor vehicles of headings 8701 to 8705.

We described the articles in NY H88186 (those specified in your reconsideration request) as follows:

The . . . LOWER RAIL COMP and UPPER RAIL COMP, are base metal rails with a center groove. They are both components of a Full Seat Device and are the two rails which slide across each other to allow the auto seat to move forward or reverse. The Upper Rail Comp is fastened to the seat bottom directly, and to the Recliner Assembly. The Lower Rail Comp is assembled just below the Upper Rail Comp. When used together, the Lower Rail Comp and the Upper Rail Comp create the track for the seat to move forward and reverse. The Lower Rail Comp is secured to the automobile floor by a separate bracket (called a "Foot"). You state that the Upper Rail Comp and Lower Rail Comp are specifically designed for and used solely with automobile seats.

The . . . MOTOR WITH GEAR BOX ASSEMBLY, is assembled within the track of the Upper Rail Comp. It is an assembly that consists of an electric 70 watt DC motor, a motor coupler, and a threaded adjusting rod with a corresponding grooved centerpiece that fits around the rod along its grooves. The centerpiece has two flanges that are used to fasten the centerpiece to the Lower Rail Comp. When the motor rotates the rod, the torque on the threaded rod forces the rod to move forward or reverse in relation to the stationary centerpiece attached to the Lower Rail Comp. Thus, when the motor is activated and the rod rotates, the centerpiece remains stationary, forcing the rod to move forward and reverse through the stationary centerpiece. Since the rod is ultimately attached to the Upper Rail Comp, the motor's power is transmitted to move the Upper Rail Comp, and thus slides the entire seat forward or reverse along the rails.

The . . . GEAR BOX ASSEMBLY, is the motor with gear box assembly without the motor. It is used in the Full Seat Device which also uses the Motor with Gear Box Assembly. It consists of a coupler, and a threaded adjusting rod with a corresponding grooved centerpiece that fits around the rod along its grooves. The centerpiece has two flanges that are used to fasten the centerpiece to the Lower Rail Comp. The Gear Box Assembly functions exactly the same as the Motor with Gear Box except that it does not have an electric motor incorporated in its assembly. The Gear Box Assembly gets its power from the same motor incorporated in the Motor with Gear Box Assembly by means of flexible power transmission shaft. This shaft, called a Cable by IB Tech, allows the Full Seat Device to use a single motor to power both the left and right rails to adjust the seat position.

The . . . RECLINER WITH MOTOR, is an assembly consisting of a base metal hinge with upper and lower attaching bracket arms, a 70 watt DC electric motor, and a geared adjusting mechanism to adjust the

incline position of a seat's back. The upper bracket arm attaches to the seat back (upper half of the auto seat). The lower bracket arm attaches to both the seat bottom (lower half of the auto seat), and also to the Upper Rail Comp. When the motor is activated, its power is transmitted through the geared position adjust mechanism and rotates the upper bracket arm to adjust the seat's back incline position. You state that the Recliner With Motor is specifically designed for and used solely with automobile seats.

We concluded in NY H88186 that the lower rail comp, upper rail comp, gear box assembly and recliner with motor were classified under subheading 8708.29.50, HTSUS, which provides for parts and accessories of bodies of the motor vehicles of headings 8701 to 8705: Other parts and accessories of bodies (including cabs): Other: Other . . . Other. We concluded that the motor with gear box assembly was classified under subheading 8501.30.20, HTSUS, which provides for electric motors and generators (excluding generating sets): other DC motors; DC generators: of an output not exceeding 750 W: motors: exceeding 37.5 W but not exceeding 74.6W.

We clarified during the telephone conference that all of the subject articles are imported separately from any other article. That is, you stated specifically in response to our questions that GRI 2 was neither relied upon nor implicated in this matter because all of the subject articles are imported in individual lots by container and shipment.

ISSUE:

Whether, in their condition as imported, any of the articles are classifiable as articles of hard rubber under heading 4017, HTSUS; base metal parts of general use under heading 8302, HTSUS; as electric motors and generators under heading 8501, HTSUS; as parts or accessories for motor vehicles under heading 8708, HTSUS; or as other parts of seats of a kind used for motor vehicles under heading 9401, HTSUS?

LAW AND ANALYSIS:

Classification of imported merchandise is accomplished pursuant to the Harmonized Tariff Schedule of the United States ("HTSUS"). Classification under the HTSUS is guided by the General Rules of Interpretation of the Harmonized System ("GRIs"). GRI 1, HTSUS, states in part that "for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes[.]"

The HTSUS provisions under consideration are as follows:

4017	Hard rubber (for example, ebonite) in all forms, including waste and scrap; articles of hard rubber. * * *
8302	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof:
8302.30	Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof:

8302.30.30	Of iron or steel, of aluminum or of zinc:
8302.30.60	Other.
8302.42	Other, suitable for furniture:
8302.42.30	Of iron or steel, of aluminum or of zinc.
	* * *
8501	Electric motors and generators (excluding generating sets):
	Other DC motors; DC generators:
8501.31	Of an output not exceeding 750 W:
	Motors:
8501.31.20	Exceeding 37.5 W but not exceeding 74.6 W.
	* * *
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
	Other parts and accessories of bodies (including cabs):
8708.29	Other:
8708.29.50	Other.
	* * *
9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:
9401.90	Parts:
9401.90.10	Of seats of a kind used for motor vehicles.

When interpreting and implementing the HTSUS, the Explanatory Notes ("ENs") of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. Customs believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

An article is to be classified according to its condition as imported. See *XTC Products, Inc. v. United States*, 771 F.Supp. 401, 405 (1991). See also *United States v. Citroen*, 223 U.S. 407 (1911). As noted in the "facts" section above, although you contend that the articles are designed solely to comprise, when assembled, an automotive seat adjuster, we must consider the articles individually in their respective conditions as imported.

The exclusionary note in Note 2(b), Section XVII, HTSUS, set forth below, provides that if the articles are classifiable as parts of general use of base metal, classification as a part or accessory in heading 8708 is precluded. A similar exclusion may apply in regard to the damper that is composed of hard rubber. "Parts of general use" are defined, for purposes of the entire

HTSUS, in Note 2, Section XV, HTSUS, as including, among other things, base metal or plastic articles of heading 8302, HTSUS. Heading 8302 includes, among other things, base metal mountings, fittings and similar articles suitable for coachwork or the like.

Note 2 to Section XVII, which includes Chapter 87, provides, in pertinent part, that:

2. The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

* * *

(b) Parts of general use, as defined in note 2 to section XV, of base metal (section XV) or similar goods of plastics (chapter 39)[.]

Similarly, Note 1(d) to Chapter 94, HTSUS, provides, in pertinent part, that:

1. This chapter does not cover:

* * *

(d) Parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39)[.]

The general ENs to Section XV provide, in pertinent part, that:

C) PARTS OF ARTICLES

In general, identifiable parts of articles are classified as such parts in their appropriate headings in the Nomenclature.

However, parts of general use (as defined in Note 2 to this Section) presented separately are not considered as parts of articles, but are classified in the headings of this Section appropriate to them. This would apply, for example, in the case of bolts specialised for central heating radiators or springs specialised for motor cars. The bolts would be classified in heading 73.18 (as bolts) and not in heading 73.22 (as parts of central heating radiators). The springs would be classified in heading 73.20 (as springs) and not in heading 87.08 (as parts of motor vehicles).

The ENs to Section XV, which includes Chapter 83, provide, in pertinent part, that:

1. This section does not cover:

* * *

(g) Assembled railway or tramway track (heading 8608) or other articles of section XVII (vehicles, ships and boats, aircraft)[emphasis added].

* * *

2. Throughout the tariff schedule, the expression “parts of general use” means:

* * *

(c) Articles of heading 8301, 8302, 8308 or 8310 and frames and mirrors, of base metal, of heading 8306.

The ENs to heading 8302, HTSUS, provide, in pertinent part, that:

This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on . . . coachwork, etc. Goods within such general classes remain in this heading even if they are designed for particular uses (e.g., door handles or hinges for automobiles). The heading does not, however, extend to goods forming an essential part of the structure of the article, such as window frames or swivel devices for revolving chairs.

The heading covers:

* * *

(C) **Mountings, fittings and similar articles suitable for motor vehicles** (e.g., motor cars, lorries or motor coaches), **not being** parts or accessories of **Section XVII** [bold emphasis in original]. For example: made up ornamental beading strips; foot rests; grip bars, rails and handles; fittings for blinds (rods, brackets, fastening fittings, spring mechanisms, etc.); interior luggage racks; window opening mechanisms; specialised ash trays; tail-board fastening fittings.

Note 87.08, Chapter 87, provides, in part:

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05 **provided** the parts and accessories fulfill **both** the following conditions [emphasis in original]:

(i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles;

and (ii) They must not be excluded by the provisions of the

Notes to Section XVII (see the corresponding General Explanatory Note).

Parts and accessories of this heading include:

* * *

(B) Parts of bodies and associated accessories, for example . . . floor boards[.]

In view of these very clear statutory provisions, if a good is a base metal mounting and fitting described by heading 8302, it **must** be classified in heading 8302, regardless of whether it is suitable for use with a motor vehicle.

The common characteristic of these articles (parts of general use as contemplated by Note 2 to Section XV) and those classifiable under heading 8302, HTSUS, is that they are articles of base metal (or plastic) which provide the function of attaching, fixing (in place), fitting, connecting, protecting, separating, binding, or stabilizing two separate articles together, or one to (or from) the other. We find that the foot is *ejusdem generis* with the articles set forth above (and as described in Note 2 to Section XV). The Court of International Trade (CIT) has stated that the canon of construction *ejusdem generis*, which means literally, of the same class or kind, teaches that “where particular words of description are followed by general terms, the latter will be regarded as referring to things of a like class with those particularly described.” *Nissho-Iwai American Corp. v. United States (Nissho)*, 10 CIT 154, 156 (1986). The CIT further stated that “[a]s applicable to

customs classification cases, *ejusdem generis* requires that the imported merchandise possess the essential characteristics or purposes that unite the articles enumerated *eo nomine* in order to be classified under the general terms." *Nissho*, p. 157. Heading 8302 provides for "mountings, fittings and similar articles (emphasis added)[.]" Thus we find the foot, which you describe as "a stamped metal bracket, used to secure and attach the full seat device to the automobile floor (with pre-drilled holes for bolts)" is properly classified under heading 8302, HTSUS.

As is noted above, one comment concerning the modification of NY H88184 was received in response to the 625 notices. It questioned whether the foot should be classified under subheading 8302.30, HTSUS, which provides for other mountings, fittings and similar articles suitable for motor vehicles (as it was in NY H88184), rather than as proposed under subheading 8302.42, HTSUS, which provides for other mountings, fittings and similar articles, other, suitable for furniture. We concluded in NY H88184 that the foot was classified under subheading 8302.30.30, HTSUS, and in light of the comment received, we find no reason to change the conclusion of NY H88184. Thus, the foot will be classified under subheading 8302.30.30, HTSUS, as it is more aptly described as a part of an automobile, given that its function is to fasten the seat and adjuster assembly to the floorboard of the vehicle.

You state that the damper is a hard rubber bushing that "protect[s] the (metal) transmission arm of the motor from making direct contact with the (metal) shaft of the Full Seat Device, thus preventing damage." Articles composed of hard rubber are *prima facie* classifiable under heading 4017, HTSUS, which provides for hard rubber in all forms . . . articles of hard rubber. However, the ENs to heading 4017 at page 776 provide that heading 4017 excludes "(b) parts and accessories of hard rubber for vehicles . . . which fall to be classified within any heading in Chapters 86 to 88," as well as "(f) furniture . . . and other articles of Chapter 94." Thus, given that heading 4017, HTSUS, excludes, *inter alia*, parts and accessories classifiable under headings 8708 and 9401, we conclude that the articles are not classifiable under heading 4017, HTSUS.

We next consider whether the articles (the damper, lower rail comp, upper rail comp, gear box assembly, motor with gear box assembly and recliner with motor) are classifiable under heading 8501, HTSUS (only for those articles containing motors), heading 8708, HTSUS or under heading 9401, HTSUS, as set forth above. We note that heading 8501, HTSUS, provides for electrical motors; heading 8708, HTSUS, includes parts and accessories of certain motor vehicles and heading 9401 includes parts of certain seats but does not include accessories. Finally, we note that Additional U.S. Rule of Interpretation 1(c), provides as follows:

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

* * *

- (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 and accessories" shall not prevail over a specific provision for such part or accessory;

The lower rail comp, upper rail comp, gear box assembly, motor with gear box assembly and recliner with motor are constructed of base metal and the

unrefuted argument presented is that the articles can only be assembled to create an automotive seat adjuster assembly. You also establish that the articles are not otherwise marketable. The descriptions and images provided of the lower rail comp and upper rail comp lead us to believe that the articles are manufactured to a level of specification that takes them beyond “parts of general use” as described in Section XV (similarly the gear box assembly, motor with gear box assembly and the recliner with motor do not fall to be described or classified as parts of general use). We also note that the ENs to heading 8302, HTSUS, provide that “the heading does not, however, extend to goods forming an essential part of the structure of the article, such as window frames or *swivel devices for revolving chairs* [emphasis added].” It follows then that if swivel devices for revolving chairs comprise an essential part of the structure of a revolving chair, likewise the metal components that comprise an adjuster assembly for an automotive seat comprise essential parts of the automobile seats.

We believe that the subject goods are more aptly described as parts of seats than parts of motor vehicles. The facts indicate that:

[A]ll parts of the motor vehicle seat are incorporated into the finished motor vehicle seat by the seat manufacturer prior to being sent to the automobile manufacturer. No separate seat parts are sent directly to the automobile manufacturer. Once all seat parts have been assembled into a finished motor vehicle seat, the finished seat is then transferred from the seat manufacturer’s facility to an automobile assembly facility where the seat is installed in an automobile. The subject goods become part of the seat, which subsequently is installed in the motor vehicle.

The subject articles are the components that, when combined, will be secured first to the seat of an automobile and then to the floor of an automobile. The adjuster assemblies hold the seat in place and allow it to be adjusted to accommodate drivers of different sizes. The assemblies are parts of seats of a kind used in motor vehicles. “Where a particular part of an article is provided for specifically, a part of that particular part is more specifically provided for as part of the part than as part of the whole.” Sturm, Ruth; *Customs Law & Administration*, 3rd Edition, section 54.9, p. 57 (citing *C.F. Liebert v. United States*, 60 Cust. Ct. 677, C.D. 3499, 287 F. Supp. 1008 (1968); *Foster Wheeler Corp. v. United States*, 61 Cust. Ct. 166, C.D. 3556, 290 F. Supp. 375 (1968); and *Korody-Colyer Corp. v. United States*, 66 Cust. Ct. 337, C.D. 4212 (1971)).

We are satisfied that the subject goods are “parts” of the seats. See, for example, *Bauerhin Technologies v. United States*, 110 F. 3d 774 (Fed. Cir. 1997), *affg* 914 F. Supp. 554 (CIT 1995). In *Bauerhin*, the United States Court of Appeals for the Federal Circuit held that canopies for infant car seats which were solely dedicated for use with child safety seats, and were neither designed nor sold to be used independently, were properly classified as parts of car seats. Like the canopies in *Bauerhin*, the upper and lower rail comps at issue are solely dedicated for use with the automobile seats, and are neither designed nor sold to be used independently.

Accordingly, we find that the upper and lower rail comps are provided for under heading 9401, HTSUS. They are classified in subheading 9401.90.10, HTSUS, which provides for seats (other than those of heading 9402) . . . and parts thereof: Parts: Of seats of a kind used for motor vehicles.

Given the description of the damper and following examination of the image provided thereof, we note that the damper—a bushing comprised of hard rubber and designed to protect the rail comp—is most aptly described as a part of the seat as well and is therefore classifiable under heading 9401, HTSUS.

A similar analysis, *i.e.*, that the articles are best described as parts of seats rather than as parts of automobiles, leads us to a similar conclusion with regard to the gear box assembly, which, based upon the description and images provided, is classifiable under heading 9401, HTSUS.

In H88186, we classified the motor with gear box assembly under heading 8501, HTSUS, which provides for electric motors. We are not persuaded by the arguments presented, nor do we find any basis to revisit the conclusion. Therefore, the motor with gear box assembly will remain so classified.

The recliner with motor, which you describe as “an assembly consisting of a base metal hinge with upper and lower attaching bracket arms, a 70 watt DC electric motor, and a geared adjusting mechanism to adjust the incline position of a seat’s back,” requires somewhat of a different analysis. You state that the article consists of an “upper bracket arm [that] attaches to the seat back (upper half of the auto seat)” and a “lower bracket arm [that] attaches to both the seat bottom (lower half of the auto seat).” The electric motor powers the mechanism. If the article consisted of only the recliner brackets, we would classify the article under heading 9401, HTSUS, pursuant to the analysis above. However, given that the article contains an electric motor, the article is *prima facie* classifiable under two headings: heading 9401 and heading 8501 which provides for electric motors. Thus, the article is not classifiable at GRI 1. GRI 2 (b) provides in pertinent part that “the classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.” GRI 3(b) provides that “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.”

Under GRI 3(b), classification of the composite good is determined on the basis of the component that gives it its essential character. EN Rule 3(b)(VIII) lists as factors to help determine the essential character of such goods the nature of the materials or components, their bulk, quantity, weight or value, and the role of a constituent material in relation to the use of the goods.

While the electric motor enhances the use of the recliner, we find that the brackets that both comprise the hinge of the recliner and the connection to the automotive seat as a whole impart the essential character to the article. Although we are not presented with information concerning the value of the electric motor as compared to that of the base metal components, we find that consideration of the comparative nature of the components, bulk, weight and role of the constituent material in relation to the use of the recliner with motor leads to the conclusion that the geared metal hinge, which comprises the recliner mechanism and holds/maintains the position of the seat, imparts the essential character of the recliner with motor. The automotive seat would be useless without the base metal brackets that join and support the upper and lower parts of the article. Given the relative roles of the components, the electric motor enhances the use and function of the re-

cliner. Accordingly, pursuant to the above referenced section notes and GRI 3(b), the recliner with motor is classified under heading 9401, HTSUS.

HOLDING:

The base metal foot is classifiable under subheading 8302.30.30, HTSUS, which provides for base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows . . . and base metal parts thereof: Other, suitable for furniture: Of iron or steel, of aluminum or of zinc. The damper, upper and lower rail comps, the gear box, and recliner with motor are classifiable under subheading 9401.90.10, HTSUS, which provides for seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Parts: Of seats of a kind used for motor vehicles. The motor with gear box assembly remains classified under subheading 8501.30.20, HTSUS, which provides for electric motors and generators (excluding generating sets): other DC motors; DC generators: of an output not exceeding 750 W: motors: exceeding 37.5 W but not exceeding 74.6W.

EFFECT ON OTHER RULINGS:

NY H88184 is modified and H88186 is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966201

October 27, 2003

CLA-2 RR:CR:GC 966201 KBR

CATEGORY: Classification

TARIFF NO.: 9401.90.10

AEI CUSTOMS BROKERAGE SERVICES
P.O. Box 33479
Detroit, MI 48216
Attn: Bonnie Kidd

RE: HQ 962046 Modified; Automobile Seat Adjuster

DEAR MS. KIDD:

This is in reference to HQ 962046, on Protest 3801-98-100222, dated January 13, 1999, and issued to you by the Port Director, Detroit, with the CF 19 on January 24, 2000. The protest was filed on behalf of your client, Lear Seating Corporation. This decision concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of, among other things, a fully assembled automobile seat adjuster. We have reviewed HQ 962046 and determined that the classification provided for the fully assembled automobile seat adjuster is incorrect. This ruling sets forth the cor-

rect classification. This ruling has no effect on the entries which were the subject of Protest 3801-98-100222.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of HQ 962046, as described below, was published in Volume 37, Number 32 of the *Customs Bulletin* on August 6, 2003. No comments were received with respect to the modification of HQ 962046.

FACTS:

HQ 962046 concerned automobile seat adjusters, dump recliners, active sliders, seat recliners, latch assemblies, reclining bench and pivot "assy," seat track, release handle, and handle assembly. Only the fully assembled automobile seat adjuster is at issue in this ruling.

In HQ 962046, it was determined that the fully assembled automobile seat adjuster was classifiable in subheading 8708.29.50, HTSUS, as other parts and accessories of motor vehicle bodies. We have reviewed that ruling and determined that the classification of the fully assembled automobile seat adjuster is incorrect. This ruling sets forth the correct classification.

ISSUE:

Whether fully assembled automobile seat adjusters are classifiable as parts of seats under heading 9401, HTSUS?

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") in accordance with the General Rules of Interpretation ("GRIs"). Under GRI 1, merchandise is classifiable according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The HTSUS provisions under consideration are as follows:

8302	Base metal mountings, fittings and similar articles for furniture . . . coachwork . . . ; and base metal parts thereof:
8302.30	Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof:
8302.30.30	Of iron or steel, of aluminum or zinc:
8302.42	Other, suitable for furniture:
8302.42.30	Of iron or steel, of aluminum or of zinc.
	* * * * *
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
	Other parts and accessories of bodies (including cabs):
8708.29	Other:
8708.29.50	Other:

Other parts and accessories:

- 8708.99 Other:
- 8708.99.80 Other.
- * * * * *
- 9401 Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:
- 9401.90 Parts:
- 9401.90.10 Of seats of a kind used for motor vehicles.

Initially, we look at whether, because they are involved in attaching a seat to a vehicle, the seat adjusters can be considered to be a “mounting” of heading 8302, HTSUS. Then, if the seat adjusters are classifiable in heading 8302, Section XVII, Note 2(b) excludes from heading 8708 parts of general use provided for in heading 8302.

“Parts of general use” are defined, for purposes of the entire HTSUS, in Note 2, Section XV, HTSUS, as including, among other things, base metal or plastic articles of heading 8302, HTSUS. Heading 8302 includes, among other things, base metal mountings, fittings and similar articles suitable for coachwork or the like.

Note 2 to Section XVII, which includes Chapter 87, provides, in pertinent part, that:

- 2. The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

* * *

- (b) Parts of general use, as defined in note 2 to section XV, of base metal (section XV) or similar goods of plastics (chapter 39)[.]

Similarly, Note 1(d) to Chapter 94, HTSUS, provides, in pertinent part, that:

- 1. This chapter does not cover:

* * *

- (d) Parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39)[.]

The general ENs to Section XV provide, in pertinent part, that:

C) PARTS OF ARTICLES

In general, identifiable parts of articles are classified as such parts in their appropriate headings in the Nomenclature.

However, parts of general use (as defined in Note 2 to this Section) presented separately are not considered as parts of articles, but are classified in the headings of this Section appropriate to them. This would apply, for example, in the case of bolts specialised for central heating radiators or springs specialised for motor cars. The bolts would be classified in heading 73.18 (as bolts) and not in heading 73.22 (as parts of central heating radiators). The springs would be classified in

heading 73.20 (as springs) and not in heading 87.08 (as parts of motor vehicles).

The ENs to Section XV, which includes Chapter 83, provide, in pertinent part, that:

1. This section does not cover:

* * *

(g) Assembled railway or tramway track (heading 8608) *or other articles of section XVII* (vehicles, ships and boats, aircraft)[emphasis added].

* * *

2. Throughout the tariff schedule, the expression “parts of general use” means:

* * *

(c) Articles of heading 8301, 8302, 8308 or 8310 and frames and mirrors, of base metal, of heading 8306.

The ENs to heading 8302, HTSUS, provide, in pertinent part, that:

This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on . . . coachwork, etc. Goods within such general classes remain in this heading even if they are designed for particular uses (*e.g.*, door handles or hinges for automobiles). The heading does not, however, extend to goods forming an essential part of the structure of the article, such as window frames or swivel devices for revolving chairs.

The heading covers:

* * *

(C) **Mountings, fittings and similar articles suitable for motor vehicles** (*e.g.*, motor cars, lorries or motor coaches), **not being** parts or accessories of **Section XVII** [bold emphasis in original]. For example: made up ornamental beading strips; foot rests; grip bars, rails and handles; fittings for blinds (rods, brackets, fastening fittings, spring mechanisms, etc.); interior luggage racks; window opening mechanisms; specialised ash trays; tail-board fastening fittings.

Note 87.08, Chapter 87, provides, in part:

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05 **provided** the parts and accessories fulfill **both** the following conditions [emphasis in original]:

- (i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles;
- and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

Parts and accessories of this heading include:

* * *

(B) Parts of bodies and associated accessories, for example . . . floor boards[.]

In view of these very clear statutory provisions, if a good is a base metal mounting and fitting described by heading 8302, it **must** be classified in heading 8302, regardless of whether it is suitable for use with a motor vehicle.

The common characteristic of these articles (parts of general use as contemplated by Note 2 to Section XV) and those classifiable under heading 8302, HTSUS, is that they are articles of base metal (or plastic) which provide the function of attaching, fixing (in place), fitting, connecting, protecting, separating, binding, or stabilizing two separate articles together, or one to (or from) the other. We find that, because of the degree of manufacture, intended purpose, and condition as imported, the fully assembled seat adjuster under consideration is not classifiable as parts of general use under heading 8302, HTSUS.

HQ 962046 discussed the difference between a “part” and an “accessory.” HQ 962046 defined an accessory as follows:

[A]n “accessory,” for tariff purposes, is generally not necessary to the completion of the article it is used with. Accessories are of secondary importance, not essential in and of themselves. They must, however, add to the effectiveness of the article they are used with, for example, by making that article more convenient to use or by expanding its range of uses.

HQ 962046 then stated that seat adjusters are not necessary to the completion of automotive bodies, but they expand the range of uses of automotive bodies by providing a base or frame for a seat. Only by being affixed to the floor can a seat adjuster provide stability and maneuverability to the seat. HQ 962046 concluded that the seat adjusters are accessories for tariff purposes.

We disagree with this conclusion concerning the automobile seat adjuster. As HQ 962046 pointed out, a “part,” for tariff purposes, is an integral, constituent component of another article, necessary to the completion of the article with which it is used, and which enables that article to function in the manner for which it was designed. In the case of the automobile seat adjuster, we find that the ability to adjust an automobile seat is a necessary component of the seat. Initially, we distinguish an “automobile seat” from other types of “seat.” An automobile seat has certain special requirements that other seats may not have. EN 83.02 pointed out that there are different types of seats and, further, that these seats may have different essential parts. The exclusion in this EN states in pertinent part:

This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coachwork, etc. . . . This heading does not, however, extend to goods forming an essential part of the structure of an article, such as window frames or swivel devices for revolving chairs.

The EN indicates that there is a specific article, a “revolving chair.” Further, the “swivel” is an essential part to this specific type of seat. *See also* 9401.30, HTSUS, classifying “swivel seats” as a distinct type of seat.

In a similar way, the automobile seat is another specific type of seat. Further, the seat adjuster for an automobile seat is an essential part of the seat in the way that the swivel is an essential part of a revolving chair. The ability to adjust the automobile seat in and out and/or up and down is an essential requirement. Without the adjustability of the automobile seat, drivers of

different sizes can not safely operate the vehicle. A shorter person could not reach the gas or brake pedals or the steering wheel, while a taller person could not release pressure or transfer their foot from one pedal to the other pedal. A larger person might be pressed against the steering wheel and not be able to turn the steering wheel. Therefore, we find that the automobile seat adjuster is an essential “part” of an “automobile seat”, not an “accessory.” Thus, noting EN 83.02, the automobile seat adjuster is an essential part of the article and may not be classified in chapter 83.

Since we have determined that the automobile seat adjuster is a part of a specific type of seat—an automobile seat—we find that it is more specifically provided for in heading 9401, HTSUS, as seats and parts thereof, than in heading 8708, HTSUS, as parts and accessories of motor vehicles. Under GRI 3(a), heading 9401 provides a more specific description for automobile seat adjusters than does heading 8708. Therefore, the fully assembled automobile seat adjusters are classifiable under subheading 9401.90.10, HTSUS, as parts of seats of a kind used for motor vehicles.

As indicated above, this ruling has no effect on the entries which were the subject of Protest 3801-98-100222, as Customs no longer has jurisdiction over those entries. See *San Francisco Newspaper Printing Co. v. United States*, 620 F. Supp. 738 (CIT 1985).

HOLDING:

Fully assembled automobile seat adjusters are classifiable under subheading 9401.90.10, HTSUS, as parts of seats of a kind used for motor vehicles.

EFFECT ON OTHER RULINGS:

HQ 962046, dated January 13, 1999, is modified as to the fully assembled automobile seat adjuster. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966450

October 27, 2003

CLA-2 RR:CR:GC 966450 KBR

CATEGORY: Classification

TARIFF NO.: 9401.90.10

AEI-CARR
P.O. Box 33472
Detroit, MI 48232
Attn: J. Reed

RE: HQ 961652 Revoked; Automobile Seat Adjuster

DEAR J. REED:

This is in reference to HQ 961652, issued to you, on January 11, 1999, on behalf of your client, Lear Seating Corporation, concerning Protest 3801-97-102267. This ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of an automobile seat adjuster. We have reviewed HQ 961652 and determined that the classification provided for the automobile seat adjuster is incorrect. This ruling sets forth the correct classification. This ruling has no effect on the entries which were subject of Protest 3801-97-102267.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of HQ 961652, as described below, was published in Volume 37, Number 32 of the *Customs Bulletin* on August 6, 2003. No comments were received with respect to the revocation of HQ 961652.

FACTS:

In HQ 961652, it was determined that the automobile seat adjuster was classifiable in subheading 8708.29.50, HTSUS, as parts and accessories of motor vehicles, other parts and accessories of bodies, other. We have reviewed that ruling and determined that the classification of the automobile seat adjuster is incorrect. This ruling sets forth the correct classification.

The article at issue in HQ 961652 was described as a rectangular frame of base metal, open on one end, with a base metal connecting rod between the short sides. The article was designed to be bolted to the floor of an automobile. There is a grooved track on one or both of the short sides that permits an automobile seat to move forward and reverse. A spring-loaded knob or lever allows the occupant to adjust the seat.

ISSUE:

Whether automobile seat adjusters are classifiable as parts of seats under heading 9401, HTSUS?

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). Under GRI 1, merchandise is classifiable according to the terms of the headings of the tariff schedule and any relative Section or Chapter

Notes. In the event that the goods cannot be classified on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The HTSUS provisions under consideration are as follows:

- 8303 Base metal mountings, fittings and similar articles for furniture . . . coachwork . . . ; and base metal parts thereof:
- 8303.30 Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof:
- 8302.30.30 Of iron or steel, of aluminum or zinc:
- 8302.42 Other, suitable for furniture:
- 8302.42.30 Of iron or steel, of aluminum or of zinc.
* * * * *
- 8708 Parts and accessories of the motor vehicles of headings 8701 to 8705:
Other parts and accessories of bodies (including cabs):
- 8708.30 Other:
- 8708.29.50 Other:
Other parts and accessories:
- 8708.99 Other:
- 8708.99.80 Other.
* * * * *
- 9401 Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:
- 9401.90 Parts:
- 9401.90.10 Of seats of a kind used for motor vehicles.

Initially, we look at whether, because they are involved in attaching a seat to a vehicle, the seat adjusters can be considered a “mounting” of heading 8302, HTSUS. Then, if the seat adjusters are classifiable in heading 8302, Section XVII, Note 2(b) excludes from heading 8708 parts of general use provided for in heading 8302.

“Parts of general use” are defined, for purposes of the entire HTSUS, in Note 2, Section XV, HTSUS, as including, among other things, base metal or plastic articles of heading 8302, HTSUS. Heading 8302 includes, among other things, base metal mountings, fittings and similar articles suitable for coachwork or the like.

Note 2 to Section XVII, which includes Chapter 87, provides, in pertinent part, that:

2. The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

* * *

(b) Parts of general use, as defined in note 2 to section XV, of base metal (section XV) or similar goods of plastics (chapter 39)[.]

Similarly, Note 1(d) to Chapter 94, HTSUS, provides, in pertinent part, that:

1. This chapter does not cover:

* * *

(d) Parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39)[.]

The general ENs to Section XV provide, in pertinent part, that:

C) PARTS OF ARTICLES

In general, identifiable parts of articles are classified as such parts in their appropriate headings in the Nomenclature.

However, parts of general use (as defined in Note 2 to this Section) presented separately are not considered as parts of articles, but are classified in the headings of this Section appropriate to them. This would apply, for example, in the case of bolts specialised for central heating radiators or springs specialised for motor cars. The bolts would be classified in heading 73.18 (as bolts) and not in heading 73.22 (as parts of central heating radiators). The springs would be classified in heading 73.20 (as springs) and not in heading 87.08 (as parts of motor vehicles).

The ENs to Section XV, which includes Chapter 83, provide, in pertinent part, that:

1. This section does not cover:

* * *

(g) Assembled railway or tramway track (heading 8608) *or other articles of section XVII* (vehicles, ships and boats, aircraft)[emphasis added].

* * *

2. Throughout the tariff schedule, the expression “parts of general use” means:

* * *

(c) Articles of heading 8301, 8302, 8308 or 8310 and frames and mirrors, of base metal, of heading 8306.

The ENs to heading 8302, HTSUS, provide, in pertinent part, that:

This heading covers general-purpose classes of base metal accessory fittings and mountings, such as are used largely on . . . coachwork, etc. Goods within such general classes remain in this heading even if they are designed for particular uses (*e.g.*, door handles or hinges for automobiles). The heading does not, however, extend to goods forming an essential part of the structure of the article, such as window frames or swivel devices for revolving chairs.

The heading covers:

* * *

(C) **Mountings, fittings and similar articles suitable for motor vehicles** (*e.g.*, motor cars, lorries or motor coaches), **not being** parts or accessories of **Section XVII** [bold emphasis in original]. For example: made up ornamental beading strips; foot rests; grip bars, rails and handles; fittings for blinds (rods, brackets, fastening fittings, spring mechanisms, etc.); interior luggage racks; window opening mechanisms; specialised ash trays; tail-board fastening fittings.

Note 87.08, Chapter 87, provides, in part:

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05 **provided** the parts and accessories fulfill **both** the following conditions [emphasis in original]:

- (i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles;
- and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

Parts and accessories of this heading include:

* * *

(B) Parts of bodies and associated accessories, for example . . . floor boards[.]

In view of these very clear statutory provisions, if a good is a base metal mounting and fitting described by heading 8302, it **must** be classified in heading 8302, regardless of whether it is suitable for use with a motor vehicle.

The common characteristic of these articles (parts of general use as contemplated by Note 2 to Section XV) and those classifiable under heading 8302, HTSUS, is that they are articles of base metal (or plastic) which provide the function of attaching, fixing (in place), fitting, connecting, protecting, separating, binding, or stabilizing two separate articles together, or one to (or from) the other. We find that, because of the degree of manufacture, intended purpose, and condition as imported, that the fully assembled seat adjuster under consideration is not classifiable as a part of general use under heading 8302, HTSUS.

HQ 961652 discussed the difference between a “part” and an “accessory.” HQ 961652 defined an accessory as follows:

[A]n “accessory,” for tariff purposes, is generally not necessary to the completion of the article it is used with. Accessories are of secondary importance, not essential in and of themselves. They must, however, add to the effectiveness of the article they are used with, for example, by making that article more convenient to use or by expanding its range of uses.

HQ 961652 then stated that the seat adjusters are not necessary to the completion of automotive bodies, but they expand the range of uses of automotive bodies by providing a base or frame for a seat. Only by being affixed to the floor can a seat adjuster provide stability and maneuverability to the

seat. HQ 961652 concludes that the seat adjusters are accessories for tariff purposes.

We disagree with this conclusion concerning the automobile seat adjuster. As HQ 961652 pointed out, a “part,” for tariff purposes, is an integral, constituent component of another article, necessary to the completion of the article with which it is used, and which enables that article to function in the manner for which it was designed. In the case of the automobile seat adjuster, we find that the ability to adjust an automobile seat is a necessary component of the seat. First, we distinguish an “automobile seat” from other types of “seat.” An automobile seat has certain special requirements that other seats may not have. EN 83.02 indicates that there are different types of seats and, further, that these seats may have different essential parts. The exclusion in this EN states in pertinent part:

This heading covers general-purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coachwork, etc. . . . This heading does not, however, extend to goods forming an essential part of the structure of an article, such as window frames or swivel devices for revolving chairs.

The EN indicates that there is a specific article, a “revolving chair.” Further, the “swivel” is an essential part to this specific type of seat. *See also* 9401.30, HTSUS, classifying “swivel seats” as a distinct type of seat.

In a similar way, the automobile seat is another specific type of seat. Further, the seat adjuster for an automobile seat is an essential part of the seat in the same way that the swivel is an essential part of a revolving chair. The ability to adjust the automobile seat in and out and/or up and down is an essential requirement. Without the adjustability of the automobile seat, drivers of different sizes can not safely operate the vehicle. A shorter person could not reach the gas or brake pedals or the steering wheel, while a taller person could not release pressure or transfer their foot from one pedal to the other pedal. A larger person might be pressed against the steering wheel and not be able to turn the steering wheel. Therefore, we find that the automobile seat adjuster is an essential “part” of an “automobile seat,” not an “accessory.” Thus, noting EN 83.02, the automobile seat adjuster is an essential part of the article and may not be classified in chapter 83.

Since we have determined that the automobile seat adjuster is a part of a specific type of seat—an automobile seat, we find that it is provided for in heading 9401, HTSUS, as seats and parts thereof. Under GRI 3(a), heading 9401 provides a more specific description for automobile seat adjusters than does heading 8708. Therefore, the fully assembled automobile seat adjusters are classifiable under subheading 9401.90.10, HTSUS, as parts of seats of a kind used for motor vehicles.

As indicated above, this ruling has no effect on the entries which were the subject of Protest 3801–97–102267, as Customs no longer has jurisdiction over those entries. *See San Francisco Newspaper Printing Co. v. United States*, 620 F. Supp. 738 (CIT 1985).

HOLDING:

Fully assembled automobile seat adjusters are classified under subheading 9401.90.10, HTSUS, as parts of seats of a kind used for motor vehicles.

EFFECT ON OTHER RULINGS:

HQ 961652, dated January 11, 1999, is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966449
October 14, 2003
CLA-2 RR:CR:GC 966449 KBR
CATEGORY: Classification
TARIFF NO.: 9401.90.10

MR. HARRY BANK
SUGIHARA TRADING OF CALIFORNIA, INC.
3989 Centinela Avenue
Los Angeles, CA 90066

RE: NY 815567 Revoked; Go-Cart Seat Adjuster

DEAR MR. BANK:

This is in reference to New York Ruling Letter (NY) 815567, issued to you by the Customs National Commodity Specialist Division, New York, on November 2, 1995. This ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a go-cart seat adjuster. We have reviewed NY 815567 and determined that the classification provided is incorrect. This ruling sets forth the correct classification.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY 815567, as described below, was published in Volume 37, Number 32 of the *Customs Bulletin* on August 6, 2003. No comments were received with respect to the revocation of NY 815567.

FACTS:

In NY 815567, it was determined that the go cart seat adjuster was classifiable in subheading 8708.29.50, HTSUS, as parts and accessories of motor vehicles, other parts and accessories of bodies, other, other. The seat adjuster consisted of two individual pieces of silver metal. One of the pieces was 12 inches long and one inch wide, with a 12 inch long and $\frac{3}{4}$ inch wide track on one side. The second piece was identical to the first, except that approximately half way down its length a 12-inch long and $2\frac{3}{4}$ inch high lever with a 5-inch spring was bolted to it.

ISSUE:

Whether the go-cart seat adjusters are classified as parts of seats under heading 9401, HTSUS?

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). Under GRI 1, merchandise is classifiable according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The HTSUS provisions under consideration are as follows:

8304	Base metal mountings, fittings and similar articles for furniture . . . coachwork . . . ; and base metal parts thereof:
8304.30	Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof:
8302.30.30	Of iron or steel, of aluminum or zinc:
8302.42	Other, suitable for furniture:
8302.42.30	Of iron or steel, of aluminum or of zinc.
	* * * * *
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
	Other parts and accessories of bodies (including cabs):
8708.31	Other:
8708.29.50	Other:
	Other parts and accessories:
8708.99	Other:
8708.99.80	Other.
	* * * * *
9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:
9401.90	Parts:
9401.90.10	Of seats of a kind used for motor vehicles.

Initially, we look at whether, because the seat adjusters are involved in attaching a seat to a vehicle, the seat adjusters can be considered a “mounting” pursuant to heading 8302, HTSUS. Then, if the seat adjusters are classifiable in heading 8302, Section XVII, Note 2(b) excludes from heading 8708 parts of general use provided for in heading 8302.

“Parts of general use” are defined, for purposes of the entire HTSUS, in Note 2, Section XV, HTSUS, as including, among other things, base metal or plastic articles of heading 8302, HTSUS. Heading 8302 includes, among

other things, base metal mountings, fittings and similar articles suitable for coachwork or the like.

Note 2 to Section XVII, which includes Chapter 87, provides, in pertinent part, that:

2. The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

* * *

(b) Parts of general use, as defined in note 2 to section XV, of base metal (section XV) or similar goods of plastics (chapter 39)[.]

Similarly, Note 1(d) to Chapter 94, HTSUS, provides, in pertinent part, that:

1. This chapter does not cover:

* * *

(d) Parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39)[.]

The general ENs to Section XV provide, in pertinent part, that:

C) PARTS OF ARTICLES

In general, identifiable parts of articles are classified as such parts in their appropriate headings in the Nomenclature.

However, parts of general use (as defined in Note 2 to this Section) presented separately are not considered as parts of articles, but are classified in the headings of this Section appropriate to them. This would apply, for example, in the case of bolts specialised for central heating radiators or springs specialised for motor cars. The bolts would be classified in heading 73.18 (as bolts) and not in heading 73.22 (as parts of central heating radiators). The springs would be classified in heading 73.20 (as springs) and not in heading 87.08 (as parts of motor vehicles).

The ENs to Section XV, which includes Chapter 83, provide, in pertinent part, that:

1. This section does not cover:

* * *

(g) Assembled railway or tramway track (heading 8608) *or other articles of section XVII* (vehicles, ships and boats, aircraft)[emphasis added].

* * *

2. Throughout the tariff schedule, the expression “parts of general use” means:

* * *

(c) Articles of heading 8301, 8302, 8308 or 8310 and frames and mirrors, of base metal, of heading 8306.

The ENs to heading 8302, HTSUS, provide, in pertinent part, that:

This heading covers general-purpose classes of base metal accessory fittings and mountings, such as are used largely on . . . coachwork, etc. Goods within such general classes remain in this heading even if they are designed for particular uses (*e.g.*, door handles or hinges for automobiles). The heading does not, however, extend to goods forming an essential part of the structure of the article, such as window frames or swivel devices for revolving chairs.

The heading covers:

* * *

(C) **Mountings, fittings and similar articles suitable for motor vehicles** (*e.g.*, motor cars, lorries or motor coaches), **not being** parts or accessories of **Section XVII** [bold emphasis in original]. For example: made up ornamental beading strips; foot rests; grip bars, rails and handles; fittings for blinds (rods, brackets, fastening fittings, spring mechanisms, etc.); interior luggage racks; window opening mechanisms; specialised ash trays; tail-board fastening fittings.

Note 87.08, Chapter 87, provides, in part:

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05 **provided** the parts and accessories fulfill **both** the following conditions [emphasis in original]:

- (i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles;
- and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

Parts and accessories of this heading include:

* * *

(B) Parts of bodies and associated accessories, for example . . . floor boards[.]

In view of these very clear statutory provisions, if a good is a base metal mounting and fitting described by heading 8302, it **must** be classified in heading 8302, regardless of whether it is suitable for use with a motor vehicle.

The common characteristic of these articles (parts of general use as contemplated by Note 2 to Section XV) and those classifiable under heading 8302, HTSUS, is that they are articles of base metal (or plastic) which provide the function of attaching, fixing (in place), fitting, connecting, protecting, separating, binding, or stabilizing two separate articles together, or one to (or from) the other. We find that, because of the degree of manufacture, intended purpose, and condition as imported, the seat adjuster under consideration is not classifiable as a part of general use under heading 8302, HTSUS.

Next, we look at the difference between a “part” and an “accessory.” An “accessory,” for tariff purposes, is generally not necessary to the completion of the article it is used with. Accessories are of secondary importance, not essential in and of themselves. They must, however, add to the effectiveness of

the article they are used with, for example, by making that article more convenient to use or by expanding its range of uses.

A “part,” for tariff purposes, is an integral, constituent component of another article, necessary to the completion of the article with which it is used, and which enables that article to function in the manner for which it was designed. In the case of the go-cart seat adjuster, we find that the ability to adjust a go-cart seat is a necessary component of the seat. Initially, we distinguish a “go cart seat” from other types of “seat.” A go-cart seat has certain special requirements that other seats may not have. EN 83.02 pointed out that there are different types of seats and, further, that these seats may have different essential parts. The exclusion in this EN states in pertinent part that heading 8302, HTSUS, does not “extend to goods forming an essential part of the structure of an article, such as window frames or swivel devices for revolving chairs (see above).”

The EN indicates that there is a specific article, a “revolving chair.” Further, the “swivel” is an essential part to this specific type of seat. *See also* 9401.30, HTSUS, classifying “swivel seats” as a distinct type of seat.

In a similar way, the go-cart seat is another specific type of seat. Further, the seat adjuster for a go-cart seat is an essential part of that seat in the same way that the swivel is an essential part of a revolving chair. The ability to adjust the go-cart seat in and out is an essential requirement. Without the adjustability of the go-cart seat, drivers of different sizes can not safely operate the vehicle. A shorter person could not reach the gas or brake pedals or the steering wheel, while a taller person could not release pressure or transfer their foot from one pedal to the other pedal. A larger person might be pressed against the steering wheel and not be able to turn the steering wheel. Therefore, we find that the go cart seat adjuster is an essential “part” of a “go cart seat”, not an “accessory.” Thus, noting EN 83.02, the go-cart seat adjuster is an essential part of the article and may not be classified in chapter 83.

Since we have determined that the go-cart seat adjuster is a part of a specific type of seat—a go-cart seat, we find that it is provided for in heading 9401, HTSUS, as seats and parts thereof. Under GRI 3(a), heading 9401 provides a more specific description for go-cart seat adjusters than does heading 8708, HTSUS, parts and accessories of motor vehicles. Therefore, the go-cart seat adjuster is classifiable under subheading 9401.90.10, HTSUS, as parts of seats of a kind used for motor vehicles.

HOLDING:

Go cart seat adjusters are classifiable under subheading 9401.90.10, HTSUS, as parts of seats of a kind used for motor vehicles.

EFFECT ON OTHER RULINGS:

NY 815567 dated November 2, 1995, is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT E]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 965970

October 14, 2003

CLA-2 RR:CR:GC 965970 GOB

CATEGORY: Classification

TARIFF NO.: 9401.90.10

JOHN P. SMIRNOW
KATTEN MUCHIN ZAVIS ROSENMAN
525 West Monroe Street, Suite 1600
Chicago, IL 60661-3693

RE: Modification of NY H88185; Seat Adjuster Components

DEAR MR. SMIRNOW:

This letter is in reply to your letter of October 11, 2002, on behalf of Imasen Bucyrus Technology, Inc. ("IB Tech"), in which you request that we reconsider the classification of certain items in NY H88185 dated March 4, 2002. NY H88185 was issued to a party other than you and your firm on behalf of IB Tech. We have also considered the points raised by you and your colleagues in the telephone conference of January 30, 2003 and your additional submission of February 26, 2003.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of NY H88185, as described below, was published in the Customs Bulletin on August 6, 2003. No comments were received in regard to NY H88185.

FACTS:

The goods at issue were described as follows in NY H88185:

The first item, "SLIDE INNER RAIL," is a component of the Full Seat Device. The Slide Inner Rail is used on a Full Seat Device which adjusts the seat position manually rather than by electric motor. The Slide Inner Rail is a base metal assembly, with an inner slotted track for engaging a locking mechanism, a spring loaded handle lock/release mechanism, and a top slide bracket which amounts to the auto seat bottom. The occupant pulls the handle, releasing a locking mechanism along the slotted track, and allows the seat to slide forward or reverse. The Slide Inner Rail is attached to the auto floor by a separate bracket (called a "Foot"), and to the seat bottom. You state that the Slide Inner Rail is specifically designed for and used solely with automobile seats.

The second item, "SLIDE OUTER RAIL," is a component of the Full Seat Device. The Slide Outer Rail is used on a Full Seat Device which adjusts the seat position manually rather than by electric motor. The Slide Outer Rail is a base metal assembly, with an inner slotted track for engaging a locking mechanism, a spring loaded handle lock/release mechanism, and a top slide bracket which mounts to the auto seat bottom. The Slide Outer Rail is always used with the Slide Inner Rail, one on each side, to assemble the Full Seat Device. The Slide Outer Rail is attached to the auto floor by a separate bracket (called a "Foot"), and to

the seat bottom. Unlike the Slide Inner Rail, the Slide Outer Rail does not have a handle release for the locking mechanism. The locking mechanism is released by connecting the release handle on the Inner Slide Rail to the locking mechanism on the Slide Outer Rail by a wire assembly. The wire assembly is called a "WIRE COMP" . . . You state that the Slide Outer Rail is specifically designed for and used solely with automobile seats.

The third item, "WIRE COMP," is a steel wire with a loop on each end. The wire loop ends are secured with a metal grommet. The wire is used on the manually operated Full Seat Device and the slide rails described above. The Wire Comp attaches between the locking mechanism in the Slide Outer Rail to release the handle in the Slide Inner Rail. As the handle is turned, the wire pulls and releases the locking mechanism from the slots in the Slide Outer Rail. You state that the Wire Comp is specifically designed for and used solely with automobile seats.

IB Tech states as follows with respect to the relevant manufacturing process:

The slide inner rail, slide outer rail, and wire comp are designed together with all other parts of a specific finished seat such that the seat cannot be placed on the floor of an automobile without all of its components. The interrelatedness of the slide inner rail, slide outer rail, wire comp and all other parts comprising the finished seat is therefore recognized at the onset of motor vehicle seat production.

Subsequent to seat design, IB Tech incorporates the slide inner rail, slide outer rail, and wire comp, as well as other seat parts, into a full seat device. At this stage of production, the full seat device is most accurately viewed as a collection of certain parts of a motor vehicle seat.

Upon completion of the full seat device, IB Tech then transfers the full seat device to a motor vehicle seat manufacturer. The seat manufacturer subsequently combines the full seat device together with all other seat parts, e.g., the seat back and seat bottom, into a finished motor vehicle seat. It is important to recognize that all parts of the motor vehicle seat are incorporated into the finished motor vehicle seat by the seat manufacturer prior to being sent to the automobile manufacturer. No separate seat parts are sent directly to the automobile manufacturer.

Once all seat parts have been assembled into a finished motor vehicle seat, the finished seat is then transferred from the seat manufacturer's facility to an automobile assembly facility where the seat is installed in an automobile, i.e., the seat is placed on the floor of the vehicle, bolted down, and electrical connections are established where necessary. Only a finished motor vehicle seat is capable of being properly installed within the automobile.

In NY H88185 Customs classified the slide inner rail, the slide outer rail, and the wire comp in subheading 8708.29.50, HTSUS.

ISSUE:

What is the classification under the HTSUS of the slide inner rail, slide outer rail, and wire comp?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

8302	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows . . . and base metal parts thereof:
8302.30	Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof:
8302.30.30	Of iron or steel, of aluminum or of zinc
8302.42	Other; suitable for furniture
8302.42.30	Of iron or steel, of aluminum or of zinc
	* * * * *
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
	Other parts and accessories of bodies (including cabs):
8708.29	Other:
8708.29.50	Other
	* * * * *
9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:
9401.90	Parts:
9401.90.10	Of seats of a kind used for motor vehicles

Note 2(c) to Section XV, HTSUS, which includes Chapter 83, provides in pertinent part as follows:

2. Throughout the tariff schedule, the expression "parts of general use" means:

. . .

(c) Articles of heading 8301, 8302, 8308, or 8310 . . .
[Emphasis in original.]

Note 2(b) to Section XVII, HTSUS, which includes Chapter 87, provides:

2. The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

...

(b) Parts of general use, as defined in note 2 to section XV, of base metal (section XV) or similar goods of plastics (chapter 39);
[Emphasis in original.]

Note 1(d) to Chapter 94, HTSUS, provides:

1. This chapter does not cover:

...

(d) Parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39), or safes of heading 8303;

Pursuant to Note 2(c) to Section XV, Note 2(b) to Section XVII, and Note 1(d) to Chapter 94, if the goods at issue are described in heading 8302, HTSUS, that provision takes precedence over heading 8708, HTSUS, and heading 9401, HTSUS. Therefore, the initial inquiry is whether the goods at issue are described in heading 8302, HTSUS, i.e., are they base metal mountings, fittings and similar articles suitable for furniture, doors, etc?

In HQ 959052 dated May 17, 1996, we examined “mounting” in the context of heading 8302, HTSUS. We stated:

The term “mounting” (“mount”) is broadly defined as a frame or support, such as, “an undercarriage or part on which a device (as a motor or artillery piece) rests in service,” or “an attachment for an accessory.” Webster’s Ninth New Collegiate Dictionary, pp. 775–776 (1990). Thus, a mounting is generally a component that serves to join two other parts together.

Webster’s Third New International Dictionary (unabridged; 1961) defines “fitting” as follows:

1 a : something used in fitting up : accessory, adjunct, attachment . . . b. a small often standardized part (as a coupling, valve, gauge) entering into the construction of a boiler, steam, water or gas supply installation or other apparatus . . .

EN 83.02 provides in pertinent part as follows:

This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coachwork, etc. . . . This heading does not, however, extend to goods forming an essential part of the structure of an article, such as window frames or swivel devices for revolving chairs.

This heading covers:

...

(C) Mountings, fittings and similar articles suitable for motor vehicles (e.g., motor cars, lorries or motor vehicles), **not being** parts or accessories of Section XVII. For example, made up ornamental beading strips; foot rests; grip bars; rails and handles; fittings for blinds (rods,

brackets, fastening fittings, spring mechanisms, etc.); interior luggage racks; window opening mechanisms; specialised ash trays; tail-board fastening fittings.

...

(E) Mountings, fittings and similar articles suitable for furniture

This group includes:

- (1) Protective studs (with one or more points) for legs of furniture, etc.; metal decorative fittings; shelf adjusters for book cases, etc.; fittings for cupboards; bedsteads, etc.; keyhole plates
- (2) Corner braces, reinforcing plates, angles, etc.
- (3) Catches (including ball spring catches), bolts, fasteners, latches, etc. (**other than** key-operated bolts of **heading 83.01**).
- (4) Hasps and staples for chests, etc.
- (5) Handles and knobs, including those for locks or latches. [All emphasis in original.]

After consideration, we find that the slide inner rail, slide outer rail, and wire comp are not described in heading 8302, HTSUS, based upon our belief that they are not within the common and commercial meaning of mountings (e.g., they do not serve as frames or supports), fittings, or similar articles, as discussed above. In making this finding, we also conclude that the subject goods are not of the same class or kind as the items enumerated in EN 83.02, above.

The next inquiry is whether the goods are described in Heading 8708, HTSUS or heading 9401, HTSUS. We note that heading 8708, HTSUS, includes parts and accessories of certain motor vehicles while heading 9401 includes parts of certain seats but does not include accessories.

We believe that under GRI 3(a) the subject goods are more narrowly and specifically provided for as parts of seats than as parts of motor vehicles. The facts indicate that "... all parts of the motor vehicle seat are incorporated into the finished motor vehicle seat by the seat manufacturer prior to being sent to the automobile manufacturer. No separate seat parts are sent directly to the automobile manufacturer. Once all seat parts have been assembled into a finished motor vehicle seat, the finished seat is then transferred from the seat manufacturer's facility to an automobile assembly facility where the seat is installed in an automobile..." The subject goods become part of the seat, which subsequently is installed in the motor vehicle. We are satisfied that the subject goods are "parts" of the seats, as they meet the various tests enunciated by the courts. See, e.g., Bauerhin Technologies v. United States, 110 F. 3d 774 (Fed. Cir. 1997), affg 914 F. Supp. 554 (CIT 1995).

Accordingly, we find that the slide inner rail, the slide outer rail, and the wire comp are provided for in heading 9401, HTSUS. They are classified in subheading 9401.90.10, HTSUS, as: "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Parts: Of seats of a kind used for motor vehicles."

Our findings are consistent with the following rulings: NY H88691 dated March 8, 2002, where Customs classified a seat adjustment assembly in subheading 9401.90.10, HTSUS; NY F81117 dated January 7, 2000, where Cus-

toms classified a front seat back latch assembly in subheading 9401.90.10, HTSUS; and NY 870789 dated February 7, 1992, where Customs classified a metal bar which was part of an automatic seat adjuster in subheading 9401.90.10, HTSUS.

HOLDING:

The slide inner rail, slide outer rail, and wire comp are classified in subheading 9401.90.10, HTSUS, as: "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Parts: Of seats of a kind used for motor vehicles."

EFFECT ON OTHER RULINGS:

NY H88185 is modified as to the slide inner rail, slide outer rail and wire comp. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT F]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966001
October 14, 2003
CLA-2 RR:CR:GC 966001 GOB
CATEGORY: Classification
TARIFF NO.: 9401.90.10; 8302.30.30

JOHN P. SMIRNOW
KATTEN MUCHIN ZAVIS ROSENMAN
525 West Monroe Street, Suite 1600
Chicago, IL 60661-3693

RE: Modification of NY H88183; Components of Car Seat Device

DEAR MR. SMIRNOW:

This letter is in reply to your letter of October 23, 2002, on behalf of Imasen Bucyrus Technology, Inc. ("IB Tech"), in which you request that we reconsider the classification under the Harmonized Tariff Schedule of the United States ("HTSUS") of certain items in NY H88183 dated February 27, 2002. NY H88183 was issued to a party other than you and your firm on behalf of IB Tech. We have also considered the points raised by you and your colleagues in the telephone conference of January 30, 2003, and your additional written submission of February 26, 2003.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of NY H88183, as described below, was published in the Customs Bulletin on August 6, 2003. One comment was received with respect to the modification of NY H88183.

FACTS:

In NY H88183, Customs classified four items, two of which are at issue here. The two items at issue were described in that ruling as follows:

The first item, "PIPE COMP," is used on a Full Seat Device. It is a base metal tube with flanges on each end to attach to a recliner bracket on the left and right sides of the Full Seat Device. There is an additional one-inch flange welded on the tube near one end. Near the other end of the tube are two small drilled holes. The PIPE COMP functions to support the overall structure of the Full Seat Device by connecting the left and right slide rails and recliner brackets. It also serves as an anchor for mounting the third item, the "SPRING." You state that the PIPE COMP is specifically designed for and used solely with automobile seats, and cannot be used in any other application.

The second item, "CABLE," is a power transmission shaft used with an electrically operated Full Seat Device. The Full Seat Device uses an electric motor and slide rails with a threaded adjusting mechanism to adjust the seat position forward or reverse. The power of the electric motor is used to turn the adjusting mechanism, and moves the seat forward or reverse along the rails. Although both the left and right slide rails have the threaded adjusting mechanism, only one electric motor is used to power them both. The Cable is a flexible power transmission shaft, with a rectangular cross sectional shape, which is connected between the electric motor mounted on the left side rail and the threaded adjusting mechanism on the right side rail. The Cable transmits the motor's power from the motor to the adjusting mechanism on the far rail. Thus, when the motor is activated, the adjusting mechanisms in both rails are activated simultaneously. You state that the Cable is specifically designed for and used solely with automobile seats, and cannot be used in any other application.

IB Tech states as follows with respect to the relevant manufacturing process:

The pipe comp [and] cable . . . are designed together with all other parts of a specific finished seat such that the seat cannot be placed on the floor of an automobile without all of its components. The interrelatedness of the pipe comp, cable . . . and all other parts comprising the finished seat is therefore recognized at the onset of motor vehicle seat production.

Subsequent to seat design, IB Tech incorporates the pipe comp, cable . . . as well as other seat parts, into a full seat device. At this stage of production, the full seat device is most accurately viewed as a collection of certain parts of a motor vehicle seat.

Upon completion of the full seat device, IB Tech then transfers the full seat device to a motor vehicle seat manufacturer. The seat manufacturer subsequently combines the full seat device together with all other seat parts, e.g., the seat back and seat bottom, into a finished motor vehicle seat. It is important to recognize that all parts of the motor vehicle seat are incorporated into the finished motor vehicle seat by the seat manufacturer prior to being sent to the automobile manufacturer. No separate seat parts are sent directly to the automobile manufacturer.

Once all seat parts have been assembled into a finished motor vehicle seat, the finished seat is then transferred from the seat manufacturer's facility to an automobile assembly facility where the seat is installed in an automobile, i.e., the seat is placed on the floor of the vehicle, bolted down, and electrical connections are established where necessary. Only a finished motor vehicle seat is capable of being properly installed within the automobile.

In NY H88183, Customs classified the pipe comp and cable in subheading 8708.29.50, HTSUS.

ISSUE:

What is the classification under the HTSUS of the above-described goods?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

- 8302 Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows . . . and base metal parts thereof:
 - 8302.30 Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof:
 - 8302.30.30 Of iron or steel, of aluminum or of zinc
 - 8302.42 Other, suitable for furniture:
 - 8302.42.30 Of iron or steel, of aluminum or of zinc
 - * * * * *
- 8708 Parts and accessories of the motor vehicles of headings 8701 to 8705:
 - Other parts and accessories of bodies (including cabs):
 - 8708.29 Other:
 - 8708.29.50 Other
 - * * * * *
- 9401 Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:

9401.90 Parts:

9401.90.10 Of seats of a kind used for motor vehicles

Note 2(c) to Section XV, HTSUS, which includes Chapter 83, provides in pertinent part as follows:

2. Throughout the tariff schedule, the expression “parts of general use” means:

...

(c) Articles of heading 8301, 8302, 8308, or 8310 . . .
[Emphasis in original.]

Note 2(b) to Section XVII, HTSUS, which includes Chapter 87, provides:

2. The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

...

(b) Parts of general use, as defined in note 2 to section XV, of base metal (section XV) or similar goods of plastics (chapter 39);
[Emphasis in original.]

Note 1(d) to Chapter 94, HTSUS, provides:

1. This chapter does not cover:

...

(d) Parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39), or safes of heading 8303;

Pursuant to Note 2(c) to Section XV, Note 2(b) to Section XVII, and Note 1(d) to Chapter 94, if the goods at issue are described in heading 8302, HTSUS, that provision takes precedence over heading 8708, HTSUS, and heading 9401, HTSUS. Therefore, the initial inquiry is whether the goods at issue are described in heading 8302, HTSUS, i.e., are they base metal mountings, fittings and similar articles suitable for furniture, doors, etc?

In HQ 959052 dated May 17, 1996, we examined “mounting” in the context of heading 8302, HTSUS. We stated:

The term “mounting” (“mount”) is broadly defined as a frame or support, such as, “an undercarriage or part on which a device (as a motor or artillery piece) rests in service,” or “an attachment for an accessory.” Webster’s Ninth New Collegiate Dictionary, pp. 775–776 (1990). Thus, a mounting is generally a component that serves to join two other parts together.

Webster’s Third New International Dictionary (unabridged; 1961) defines “fitting” is described as follows:

1 a : something used in fitting up : accessory, adjunct, attachment . . . b. a small often standardized part (as a coupling, valve, gauge) entering into the construction of a boiler, steam, water or gas supply installation or other apparatus . . .

EN 83.02 provides in pertinent part as follows:

This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coachwork, etc. . . . This heading does not, however, extend to goods forming an essential part of the structure of an article, such as window frames or swivel devices for revolving chairs.

This heading covers:

...

(C) Mountings, fittings and similar articles suitable for motor vehicles (e.g., motor cars, lorries or motor vehicles), not being parts or accessories of Section XVII. For example, made up ornamental beading strips; foot rests; grip bars; rails and handles; fittings for blinds (rods, brackets, fastening fittings, spring mechanisms, etc.); interior luggage racks; window opening mechanisms; specialised ash trays; tail-board fastening fittings.

...

(E) Mountings, fittings and similar articles suitable for furniture

This group includes:

- (1) Protective studs (with one or more points) for legs of furniture, etc.; metal decorative fittings; shelf adjusters for book cases, etc.; fittings for cupboards; bedsteads, etc.; keyhole plates
- (2) Corner braces, reinforcing plates, angles, etc.
- (3) Catches (including ball spring catches), bolts, fasteners, latches, etc. (**other than** key-operated bolts of **heading 83.01**).
- (4) Hasps and staples for chests, etc.
- (5) Handles and knobs, including those for locks or latches. [All emphasis in original.]

After consideration, we find that the pipe comp is described in heading 8302, HTSUS, because it has the indicia of a mounting, fitting or similar article. The description of the pipe comp in the FACTS section of this ruling includes the following: "The PIPE COMP functions to support the overall structure of the Full Seat Device by connecting the left and right slide rails and recliner brackets. It also serves as an anchor for mounting the third item, the 'SPRING.'" [Emphasis supplied.] This description is consistent with the definition of "mounting" in HQ 959052, excerpted above.

The commenter states that the pipe comp is classified in subheading 8302.30.30, HTSUS, rather than subheading 8302.42.30, HTSUS, as was proposed. We agree. We find that the pipe comp is classified in subheading 8302.30.30, HTSUS, as: "Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows . . . and base metal parts thereof: Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof: Of iron or steel, of aluminum or of zinc."

We find that the cable is not described in heading 8302, HTSUS, based upon our belief that it is not within the common and commercial meaning of a mounting (e.g., it does not serve as a frame or support), fitting or similar

article, as discussed above. Further, the cable is not of the same class or kind as the items enumerated in EN 83.02, above.

The next inquiry is whether the cable is described in Heading 8708, HTSUS or heading 9401, HTSUS. We note that heading 8708, HTSUS, includes parts and accessories of certain motor vehicles while heading 9401 includes parts of certain seats but does not include accessories.

We believe that under GRI 3(a) the cable is more narrowly and specifically provided for as a part of a seat than as a part of a motor vehicle. The facts indicate that “. . . all parts of the motor vehicle seat are incorporated into the finished motor vehicle seat by the seat manufacturer prior to being sent to the automobile manufacturer. No separate seat parts are sent directly to the automobile manufacturer. Once all seat parts have been assembled into a finished motor vehicle seat, the finished seat is then transferred from the seat manufacturer’s facility to an automobile assembly facility where the seat is installed in an automobile . . .” The cable becomes part of the seat, which subsequently is installed in the motor vehicle. We are satisfied that the cable is a “part” of the seat, as it meets the various tests enunciated by the courts. See, e.g., *Bauerhin Technologies v. United States*, 110 F. 3d 774 (Fed. Cir. 1997), *aff’g* 914 F. Supp. 554 (CIT 1995).

Accordingly, we find that the cable is provided for in heading 9401, HTSUS. It is classified in subheading 9401.90.10, HTSUS, as: “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Parts: Of seats of a kind used for motor vehicles.”

Our finding with respect to the cable is consistent with the following rulings: NY H88691 dated March 8, 2002, where Customs classified a seat adjustment assembly in subheading 9401.90.10, HTSUS; NY F81117 dated January 7, 2000, where Customs classified a front seat back latch assembly in subheading 9401.90.10, HTSUS; and NY 870789 dated February 7, 1992, where Customs classified a metal bar which was part of an automatic seat adjuster in subheading 9401.90.10, HTSUS.

HOLDING:

The pipe comp is classified in subheading 8302.30.30, HTSUS, as: “Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows . . . and base metal parts thereof: Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof: Of iron or steel, of aluminum or of zinc.”

The cable is classified in subheading 9401.90.10, HTSUS, as: “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Parts: Of seats of a kind used for motor vehicles.”

EFFECT ON OTHER RULINGS:

NY H88183 is modified as to the pipe comp and cable. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT G]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966113
October 14, 2003
CLA-2 RR:CR:GC 966113 GOB
CATEGORY: Classification
TARIFF NO.: **9401.90.10**

JOHN P. SMIRNOW
KATTEN MUCHIN ZAVIS ROSENMAN
525 West Monroe Street, Suite 1600
Chicago, IL 60661-3693

RE: Modification of NY H88554; Components of Car Seat Device

DEAR MR. SMIRNOW:

This letter is in reply to your letter of October 23, 2002, on behalf of Imasen Bucyrus Technology, Inc. ("IB Tech"), in which you request that we reconsider the classification of certain items in NY H88554 dated February 28, 2002. NY H88554 was issued to a party other than you and your firm on behalf of IB Tech. We have also considered the points raised by you and your colleagues in the telephone conference of January 30, 2003, and your additional written submission of February 26, 2003.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of NY H88554, as described below, was published in the Customs Bulletin on August 6, 2003. No comments were received with respect to NY H88554.

FACTS:

In H88554, the four items pertinent to your request were described as follows:

The first item, "COVER," is a molded plastic piece used on a Full Seat Device. It is designed so that it fits perfectly over an exposed Recliner Assembly of the Full Seat Device. The Recliner Assembly is located at the meeting of the seat bottom and seat back. It is an adjusting hinge that allows the seat occupant to adjust the incline of the seat back. The Cover functions to provide a cosmetically smooth and visually appealing finish to the Recliner of the Full Seat Device.

The second item, the "END CAP," is a molded plastic piece used on a Full Seat Device. It is designed so that it fits perfectly in place over the exposed front end of the slide rail of the Full Seat Device. The End Cap snaps into place on the slide rail, and functions to provide a cosmetically smooth and visually appealing finish to the front of the Full Seat Device.

The third item, "SLIDE," is a molded plastic piece used on a Full Seat Device. The slide is approximately 14 cm long and approximately 1.8 cm wide. It is an "L-shaped" piece, designed to fit perfectly and permanently (snaps into place) along the inside track of a lower slide rail on a Full Seat Device. Each lower rail uses four of these slides. The Slide functions as a bushing to help protect the Full Seat Device rails from

possible damage caused by the metal on metal contact from the sliding of the rails. They are a necessary component of the seat adjusting mechanism, and you state, are specifically designed for and used solely with the Full Seat Device, and cannot be used in any other application.

The fourth item, "BUSH," is a circular collar-like bushing made of base metal. It is used on a Full Seat Device as a bushing to protect a metal pipe assembly from damage when in use. The Pipe is the component of the Full Seat Device which, when rotated by an electric motor, assists in seat height adjustment. The Bush is placed inside the Pipe and welded into place. You state that the bushing is specifically designed for and used solely with the Full Seat Device, and cannot be used in any other application.

IB Tech states as follows with respect to the relevant manufacturing process:

The . . . slide, bush, cover, and end cap are designed together with all other parts of a specific finished seat such that the seat cannot be placed on the floor of an automobile without all of its components. The interrelatedness of the . . . slide, bush, cover, and end cap and all other parts comprising the finished seat is therefore recognized at the onset of motor vehicle seat production.

Subsequent to seat design, IB Tech incorporates the . . . slide, bush, cover, and end cap, as well as other seat parts, into a full seat device. At this stage of production, the full seat device is most accurately viewed as a collection of certain parts of a motor vehicle seat.

Upon completion of the full seat device, IB Tech then transfers the full seat device to a motor vehicle seat manufacturer. The seat manufacturer subsequently combines the full seat device together with all other seat parts, e.g., the seat back and seat bottom, into a finished motor vehicle seat. It is important to recognize that all parts of the motor vehicle seat are incorporated into the finished motor vehicle seat by the seat manufacturer prior to being sent to the automobile manufacturer. No separate seat parts are sent directly to the automobile manufacturer.

Once all seat parts have been assembled into a finished motor vehicle seat, the finished seat is then transferred from the seat manufacturer's facility to an automobile assembly facility where the seat is installed in an automobile, i.e., the seat is placed on the floor of the vehicle, bolted down, and electrical connections are established where necessary. Only a finished motor vehicle seat is capable of being properly installed within the automobile.

In NY H88554, Customs classified the cover, end cap, slide, and bush in subheading 8708.29.50, HTSUS.

ISSUE:

What is the classification under the HTSUS of the above-described goods?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the

goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

8302	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows . . . and base metal parts thereof:
8302.30	Other mountings, fittings and similar articles suitable for motor vehicles; and parts thereof:
8302.30.30	Of iron or steel, of aluminum or of zinc
8302.42	Other; suitable for furniture
8302.42.30	Of iron or steel, of aluminum or of zinc
*	* * * * *
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
	Other parts and accessories of bodies (including cabs):
8708.29	Other:
8708.29.50	Other
*	* * * * *
9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:
9401.90	Parts:
9401.90.10	Of seats of a kind used for motor vehicles

Note 2(c) to Section XV, HTSUS, which includes Chapter 83, provides in pertinent part as follows:

2. Throughout the tariff schedule, the expression "parts of general use" means:

. . .

(c) Articles of heading 8301, 8302, 8308, or 8310 . . .
[Emphasis in original.]

Note 2(b) to Section XVII, HTSUS, which includes Chapter 87, provides:

2. The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

...

(b) Parts of general use, as defined in note 2 to section XV, of base metal (section XV) or similar goods of plastics (chapter 39);
[Emphasis in original.]

Note 1(d) to Chapter 94, HTSUS, provides:

1. This chapter does not cover:

...

(d) Parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39), or safes of heading 8303;

Pursuant to Note 2(c) to Section XV, Note 2(b) to Section XVII, and Note 1(d) to Chapter 94, if the goods at issue are described in heading 8302, HTSUS, that provision takes precedence over heading 8708, HTSUS, and heading 9401, HTSUS. Therefore, the initial inquiry is whether the goods at issue are described in heading 8302, HTSUS, i.e., are they base metal mountings, fittings and similar articles suitable for furniture, doors, etc?

In HQ 959052 dated May 17, 1996, we examined “mounting” in the context of heading 8302, HTSUS. We stated:

The term “mounting” (“mount”) is broadly defined as a frame or support, such as, “an undercarriage or part on which a device (as a motor or artillery piece) rests in service,” or “an attachment for an accessory.” Webster’s Ninth New Collegiate Dictionary, pp. 775–776 (1990). Thus, a mounting is generally a component that serves to join two other parts together.

Webster’s Third New International Dictionary (unabridged; 1961) defines “fitting” is described as follows:

1 a : something used in fitting up : accessory, adjunct, attachment . . . b. a small often standardized part (as a coupling, valve, gauge) entering into the construction of a boiler, steam, water or gas supply installation or other apparatus . . .

EN 83.02 provides in pertinent part as follows:

This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coachwork, etc. . . . This heading does not, however, extend to goods forming an essential part of the structure of an article, such as window frames or swivel devices for revolving chairs.

This heading covers:

...

(C) Mountings, fittings and similar articles suitable for motor vehicles (e.g., motor cars, lorries or motor vehicles), **not being** parts or accessories of Section XVII. For example, made up ornamental beading strips; foot rests; grip bars; rails and handles; fittings for blinds (rods, brackets, fastening fittings, spring mechanisms, etc.); interior luggage racks; window opening mechanisms; specialised ash trays; tail-board fastening fittings.

...

(E) Mountings, fittings and similar articles suitable for furniture

This group includes:

- (1) Protective studs (with one or more points) for legs of furniture, etc.; metal decorative fittings; shelf adjusters for book cases, etc.; fittings for cupboards; bedsteads, etc.; keyhole plates
 - (2) Corner braces, reinforcing plates, angles, etc.
 - (3) Catches (including ball spring catches), bolts, fasteners, latches, etc. (**other than** key-operated bolts of **heading 83.01**).
 - (4) Hasps and staples for chests, etc.
 - (5) Handles and knobs, including those for locks or latches.
- [All emphasis in original.]

After consideration, we find that the cover, end cap, slide, and bush are not described in heading 8302, HTSUS, based upon our belief that they are not within the common and commercial meaning of mountings (e.g., they do not serve as frames or supports), fittings, or similar articles, as discussed above. In making this finding, we also conclude that the subject goods are not of the same class or kind as the items enumerated in EN 83.02, above.

The next inquiry is whether the subject goods are described in Heading 8708, HTSUS or heading 9401, HTSUS. We note that heading 8708, HTSUS, includes parts and accessories of certain motor vehicles while heading 9401 includes parts of certain seats but does not include accessories.

We believe that under GRI 3(a) the subject goods are more narrowly and specifically provided for as parts of seats than as parts of motor vehicles. The facts indicate that “. . . all parts of the motor vehicle seat are incorporated into the finished motor vehicle seat by the seat manufacturer prior to being sent to the automobile manufacturer. No separate seat parts are sent directly to the automobile manufacturer. Once all seat parts have been assembled into a finished motor vehicle seat, the finished seat is then transferred from the seat manufacturer’s facility to an automobile assembly facility where the seat is installed in an automobile . . .” The subject goods become part of the seat, which subsequently is installed in the motor vehicle. We are satisfied that the subject goods are “parts” of the seats, as they meet the various tests enunciated by the courts. See, e.g., *Bauerhin Technologies v. United States*, 110 F. 3d 774 (Fed. Cir. 1997), *affg* 914 F. Supp. 554 (CIT 1995).

Accordingly, we find that the cover, end cap, slide, and bush are provided for in heading 9401, HTSUS. They are classified in subheading 9401.90.10, HTSUS, as: “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Parts: Of seats of a kind used for motor vehicles.”

Our findings are consistent with the following rulings: NY H88691 dated March 8, 2002, where Customs classified a seat adjustment assembly in subheading 9401.90.10, HTSUS; NY F81117 dated January 7, 2000, where Customs classified a front seat back latch assembly in subheading 9401.90.10, HTSUS; and NY 870789 dated February 7, 1992, where Customs classified a metal bar which was part of an automatic seat adjuster in subheading 9401.90.10, HTSUS.

HOLDING:

The cover, end cap, slide, and bush are classified in subheading 9401.90.10, HTSUS, as: "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Parts: Of seats of a kind used for motor vehicles."

EFFECT ON OTHER RULINGS:

NY H88554 is modified as to the cover, end cap, slide and bush. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

