

# Bureau of Customs and Border Protection

## *General Notices*

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

*Washington, DC, July 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.*

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### PROPOSED 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 proposed modification of a tariff classification ruling letters and revocation of any treatment relating to the 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 intends to modify two ruling letters relating to the tariff classification, under the Harmonized Tariff Schedule of the United States, (HTSUS), of router bits. Similarly, Customs proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before September 12, 2003.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

**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)), this notice advises interested parties that Customs intends to modify two ruling letters relating to the tariff classification of router bits. Although in this notice Customs is specifically referring to HQ 964755, dated December 5, 2001 (Attachment A), and HQ 962627, dated September 2, 1999 (Attachment B), 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 (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision)

on the merchandise subject to this notice, should advise 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 with substantially identical merchandise should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical merchandise 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 decision on this notice. In HQ 964755, Customs classified router bits in subheading 8207.90.30, HTSUS, which provides for "Interchangeable tools for handtools \* \* \* or for machine-tools \* \* \* : Other interchangeable tools, and parts thereof: Other: Cutting tools with cutting part containing by weight over 0.2 percent of chromium, molybdenum, or tungsten or over 0.1 percent of vanadium." In HQ 962627, Customs classified the items in subheading 8207.50.20, HTSUS, which provides for: "Interchangeable tools, for handtools \* \* \* or for machine-tools \* \* \* : Tools for drilling, other than for rock drilling 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."

It is now Customs position that router bits are classified in subheading 8207.70.30, HTSUS, which provides for "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."

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to modify 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 C) and 966444 (Attachment D). 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. Before taking this action, consideration will be given to any written comments timely received.

DATED: July 25, 2003

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

## Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 964755  
December 5, 2001  
CLA-2 RR:CR:GC 964755 JAS  
CATEGORY: Classification  
TARIFF NO.: 8207.50.20, 8702.90.30

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

RE: **NY E84599** Revoked; Drill Bits and Router Bits

DEAR MR. HOANG:

In **NY E84599**, which the Director of Customs National Commodity Specialist Division, New York, issued to you on July 15, 1999, on behalf of Ham Technology, certain drill bits and router bits for machines used to manufacture printed circuit boards were found to be classifiable in provisions of heading 8207, Harmonized Tariff Schedule of the United States (HTSUS), as tools for drilling, other than rock drilling, and as other interchangeable tools, respectively.

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 E84599** was published on October 31, 2001, in the Customs Bulletin, Volume 35, Number 44. No comments were received in response to that notice.

FACTS:

The drill bits and router bits were described in **NY E84599** as being for use in the printed circuit board industry and as being unsuitable for cutting metal. No further description was provided. These tools are for drilling and routing machines used in the manufacture of printed circuit boards. Literature submitted with the ruling request described solid carbide high performance micro drills, special drills and special drills with stainless hardened steel shanks. Shank diameter, total length, and other dimensions were specified, but the composition of the cutting part of the tools was not indicated. The HTSUS provisions under consideration are as follows:

8207	Interchangeable tools for handtools * * * or for machine-tools * * * 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 percent of chromium, molybdenum, or tungsten or over 0.1 percent of vanadium
	Other, not suitable for cutting metal:
	Other
8207.90	Other interchangeable tools, and parts thereof:

8207.90.30 Other cutting tools with cutting part containing by weight over 0.2 percent of chromium, molybdenum, or tungsten or over 0.1 percent of vanadium

Other

8207.90.75 Other

**ISSUE:**

Determining the composition of the cutting parts of the drill bits and router bits.

**LAW AND ANALYSIS:**

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

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. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

The ENs on p. 1204 in part state that the tools of heading 8207 may be either one-piece or composite articles. The one-piece tools, made wholly from one material, are generally of alloy steel or steel with a high carbon content. Composite tools consist of one or more working parts of base metal, of metal carbides or of cermets, of diamond or of other precious or semi-precious stones, attached to a base metal support, either permanently, by welding or insetting, or as detachable parts.

The classifications expressed in **NY E84599** were those recommended in your ruling request of July 8, 1999. Subsequently, however, Ham Technology responded to a facsimile inquiry, dated October 26, 2000, from Customs New York office and provided a safety data sheet on the material from which these bits are made. Under the designation Hardmetal, the data sheet indicates the material may also be referred to as cemented carbide or tungsten carbide, the latter with from 3% to 25% cobalt. Similar information from another technical source on carbide tools and related carbide products is a specification identifying a substance with the chemical name "tungsten carbide product with cobalt binder," known variously as Hard Metal, Cemented WC and tungsten carbide. This material is used, among other things in metalworking tools. The specification indicates, for example, that tools of this material are between 2 to 30 percent by weight cobalt and between 70-98 percent, by weight, tungsten carbide. The available evidence now suggests that the drill bits and router bits the subject of **NY E84599** may have cutting parts with the requisite percent by weight of tungsten specified in subheadings 8207.50.20 and 8207.90.30, HTSUS.

**HOLDING:**

Under the authority of GRI 1, drill bits and router bits the subject of **NY E84599** are provided for in heading 8207. The drill bits are classifiable in subheading 8207.50.20, HTSUS, and the router bits in subheading 8207.90.30, HTSUS.

**EFFECT ON OTHER RULINGS:**

**NY E84599**, dated July 16, 1999, is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

JOHN DURANT,  
*Director,*  
*Commercial Rulings Division.*

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 962627  
September 2, 1999  
CLA-2 RR:CR:GC 962627 JAS  
CATEGORY: Classification  
TARIFF NO.: 8207.50.20

PORT DIRECTOR OF CUSTOMS  
720 E. San Ysidro Blvd.  
San Ysidro, CA 92073

RE: NAFTA Eligibility of Printed Circuit Board Cutting Tool Produced in Mexico  
From Non-Originating Tungsten Carbide Rods

DEAR PORT DIRECTOR:

In a letter, dated February 4, 1999, Tycom Corporation requested a ruling with respect to the tariff status as origination goods under the North American Free Trade Agreement (NAFTA) of printed circuit board cutting tools produced in Mexico from non-originating tungsten carbide rods. Tycom has informed us that this NAFTA issue involves a transaction that is currently before your office, and that the company contemplates future importations. For this reason, we are directing this response to you in accordance with section 181.92(b)(2) of the Customs Regulations. Also, we are enclosing a letter, dated April 15, 1999, in which we address the inquirer's request for confidentiality under the Freedom of Information Act.

The inquirer made factual and legal arguments in its February 4, 1999, letter. In addition, Tycom's counsel made additional arguments at a meeting in our office on August 25, 1999, confirmed by a written submission of the same date.

FACTS:

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.

Counsel makes two arguments, (1) that the Japanese-origin tungsten carbide rods are processed in the U.S. into incomplete or unfinished cutting tools so that, when exported to Mexico, they are classified under a provision that describes cutting tools and their parts, and (2) when returned to the U.S. from Mexico, the cutting tools qualify as originating goods under the NAFTA because, as provided by General Note 12(b)(iv)(B), HTSUS, they are classified in a subheading which provides for and specifically describes both the goods themselves, and their parts, and the goods satisfy one of the two permissible regional value content tests.

ISSUE:

Whether the goods returned to the U.S. from Mexico fall under a provision for "parts" because they are classified in subheading that describes cutting tools and parts thereof.

LAW AND ANALYSIS:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

With respect to issue (1), counsel makes extensive arguments, supported by appropriate authorities, that the processing of the Japanese-origin tungsten carbide blanks in the U.S. creates “blanks” which, under GRI 2(a), HTSUS, are incomplete or unfinished cutting tools of heading 8207 when they enter Mexico. Counsel’s argument is not that the rod blanks exported from the U.S. to Mexico and then used in the production of the finished tools are classified as parts under subheading 8207.50.20, HTSUS, but rather, the terms of that subheading describe both the goods and their parts, and that both the rod blanks and the finished tools are classified in the same subheading. Assuming, without deciding, that counsel prevails on this issue, we move to a discussion of issue (2). General Note 12(b)(iv)(B), in part, requires that the non-originating material (i.e., the rod blank exported from the U.S. to Mexico), used to produce the good for which the NAFTA preference is claimed, fall under a provision for “parts” and fail to undergo a qualifying change in tariff classification because the subheading for the good provides for and specifically describes both the good and its parts. Counsel’s claim is that upon its return to the U.S. from Mexico the cutting tools are classifiable in subheading 8207.50.20, HTSUS. Once again, the claim is not that the non-originating material (the rod blanks) are parts for tariff purposes, merely that subheading 8207.50.20 provides for and specifically describes both the tool and the non-originating material used to produce the tool and, thereby, the requirements of General Note 12(b)(iv)(B) are met. We do not agree that counsel’s interpretation of General Note 12(b)(iv)(B) confers originating goods status on the cutting tools. In this regard, Title 19, Code of Federal Regulations, Appendix to Part 181—Rules of Origin Regulations under the NAFTA (19 CFR Appendix to Part 181), Part II, (4)(b) clarifies General Note 12(b)(iv)(B) (see also 19 U.S.C. 3332(a)(1)(D)), by stating that originating goods status is conferred where a good is produced entirely in the territory of one or more of the NAFTA countries, one or more of the non-originating materials used in the production of the good do not undergo a change in tariff classification because the materials are provided for under the Harmonized System as parts of the good and the subheading for the good provides for both the good and its parts. In this case, the non-originating material (the rod blanks) used to produce the cutting tool, for which originating goods status is sought, is not provided for under the Harmonized System as parts of the good, but rather is provided for in subheading 8207.50.20 as the good itself, assuming acceptance of counsel’s claim that the rod blanks are incomplete or unfinished cutting tools of heading 8207.

**HOLDING:**

Under the authority of GRI 1, the printed circuit board cutting tools in issue are provided for in heading 8207. They are classifiable in subheading 8207.50.20, HTSUS. These tools imported into the U.S. from Mexico do not qualify as “goods originating in the territory of a NAFTA party,” and are not eligible for preferential tariff treatment under the NAFTA.

You are to mail this decision to the internal advice applicant, through its representative, no later than 60 days from the date of this letter. On that date the Office of Regulations and Rulings will Home Page on the World Wide Web at [www.customs.gov](http://www.customs.gov), by means of the Freedom of Information Act, and other methods of public distribution.

JOHN DURANT,  
*Director,*  
*Commercial Rulings Division.*

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 966443  
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.

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 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.

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 966444  
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 router bits 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

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 that 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 percent 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 percent 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.

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

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**PROPOSED REVOCATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF WATER POLO CAPS**

**AGENCY:** Bureau of Customs & Border Protection; Department of Homeland Security.

**ACTION:** Notice of proposed revocation of one tariff classification ruling letter and revocation of treatment relating to the classification of water polo caps.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), this notice advises interested parties that Customs & Border Protection (CBP) intends to revoke a ruling letter relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of a water polo cap. Similarly, CBP proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

**DATE:** Comments must be received on or before September 12, 2003.

**ADDRESS:** Written comments are to be addressed to Customs and Border Protection, Office of Regulations and Rulings, Attention:

Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street, N.W., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Beth Safer, Textiles Branch: (202) 572-8825.

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 CBP 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 CBP 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 CBP 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 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke one ruling relating to the tariff classification of water polo caps. Although in this notice CBP is specifically referring to the revocation of NY F80551, dated December 29, 1999 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625 (c)(2)), as amended by section 623 of Title VI, CBP in-

tends to revoke any treatment previously accorded by CBP to substantially identical merchandise. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or CBP's previous interpretation of the HTSUSA. Any person involved with substantially identical merchandise should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical merchandise 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 decision on this notice.

In NY F80551, CBP classified a water polo cap under subheading 6505.90.8090 HTSUSA, which provides for "Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips) \* \* \* whether or not lined or trimmed: Other: Of man-made fibers: Other: Not in part of braid, Other: Other: Other." Based on our analysis of the scope of the terms of headings 6505 and 6506, the Legal Notes, and the Explanatory Notes, we find that water polo caps of the type subject to this notice, should be classified in subheading 6506.10.6045, HTSUSA, which provides for "Other headgear, whether or not lined or trimmed: Safety headgear: Other, Other: Athletic, recreational and sporting headgear."

Pursuant to 19 U.S.C. 1625 (c)(1), CBP intends to revoke NY F80551, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letter (HQ) 966499 (Attachment B). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical merchandise.

Before taking this action, consideration will be given to any written comments timely received.

DATED: July 23, 2003

MYLES HARMON,  
*Director,*  
*Commercial Rulings Division.*

## Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY F80551  
December 29, 1999  
CLA-2-65:RR:NC:3:353 F80551  
CATEGORY: Classification  
TARIFF No.: 6505.90.8090

MR. HAROLD C. BOYKIN  
BEIJING TRADE EXCHANGE, INC.  
701 "E" St., SE  
Washington, DC 20003

RE: The tariff classification of a water polo cap from China.

DEAR MR. BOYKIN:

In your letter dated November 15, 1999, received in this office December 7, 1999 you requested a classification ruling. The sample will be returned to you as requested.

The submitted sample is a water polo cap with an outer surface of nylon fabric that is coated with PVC on the inner surface. The cap has plastic ear protectors, two chin ties with one ending in a loop that holds three plastic rings, to secure the cap on the wearer's head.

The applicable subheading for the polo cap will be 6505.90.8090, Harmonized Tariff Schedule of the United States (HTS), which provides for "Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or not lined or trimmed: Other: Of man-made fibers: Other: Not in part of braid, Other: Other, Other." The duty rate will be 20.4 cents/kg + 7.4% *ad valorem* for 1999 and 20 cents/kg + 7.3% for the year 2000.

The polo cap falls within textile category designation 659. Based upon international textile trade agreements products of China are subject to quota and the requirement of a visa.

The designated textile and apparel categories and their quota and visa status are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information, we suggest that you check, close to the time of shipment, the U.S. Customs Service Textile Status Report, an internal issuance of the U.S. Customs Service, which is available at the Customs Web site at [www.customs.gov](http://www.customs.gov). In addition, the designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected and should also be verified at the time of shipment.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Kenneth Reidlinger at 212-637-7084.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 966499  
CLA-2 RR:CR:TE 966499 BAS  
CATEGORY: Classification  
TARIFF NO.: 6506.10.6045

HAROLD C. BOYKIN  
BEIJING TRADE EXCHANGE, INC.  
701 E St., S.E.  
Washington, D.C. 20003

RE: Revocation of NY F80551, dated December 29, 1999; Classification of a water polo cap

DEAR MR. BOYKIN:

This is in reference to New York Ruling Letter (NY) F80551, issued to you on December 29, 1999. In NY F80551, a water polo cap with an outer surface of nylon fabric coated with polyvinyl chloride (PVC) plastic on the inner surface was classified under subheading 6505.90.8090, HTSUSA, which provides for "Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips) \* \* \* whether or not lined or trimmed: Other: Of man-made fibers: Other: Not in part of braid, Other: Other: Other."

Upon review of the ruling, the Bureau of Customs and Border Protection (CBP) has determined that the merchandise was erroneously classified. This ruling letter revokes NY F80551 and sets forth the correct classification determination.

FACTS:

The merchandise under consideration is a water polo cap. The water polo cap has an outer surface of nylon fabric that is coated with PVC on the inner surface. The cap has plastic ear protectors, two chin ties with one ending in a loop that holds three plastic rings to secure the cap on the wearer's head.

ISSUE:

Is the subject water polo cap classifiable under heading 9506, HTSUSA; which covers sports articles and equipment; under heading 6505, which covers hats and other headgear, knitted or crocheted, or made up from lace; or under heading 6506, which covers other headgear, whether or not lined or trimmed?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). 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.

The water polo cap at issue is substantially similar in construction and function to the water polo cap classified in HQ 083434, dated December 4, 1989. The main difference between the cap at issue and that classified in HQ 083434, dated December 4, 1989, is that the body of this cap is lined with PVC on the inner surface. Nonetheless, both hats function to protect the athlete's ears.

HEADING 9506

Heading 9506, HTSUSA, covers articles and equipment for gymnastics, athletics and other sports. However, note 1(g) to chapter 95 excludes sports headgear of Chapter 65 from consideration as sports equipment. Thus the water polo cap is not classifiable under heading 9506, HTSUSA.

HEADING 6505

Heading 6505, HTSUSA, covers hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric. The Explanatory Notes (EN) constitute

the official interpretation of the Harmonized System at the international level. While the text of 6505, HTSUSA does not specifically preclude the water polo cap from classification therein, the EN to heading 6505 indicate that it is not ejusdem generis with the exemplars listed. The EN to heading 6505, HTSUSA, lists various types of knitted or crocheted headgear which fall within the heading. Among those enumerated are berets, bonnets, fezzes, mortar-boards, nun's headdresses, nurses caps and textile-covered pith helmets. The enumerated exemplars are generally worn as an accessory, for a spiritual purpose or to provide warmth. A water polo cap is not worn as an accessory, for spiritual purposes or to provide warmth, but rather is worn primarily for safety reasons, to protect the wearer's ears from injury. It is our opinion, therefore, that a water polo cap is not of a class or kind with the above headgear.

HEADING 6506, HTSUSA

Heading 6506, HTSUSA, provides for other headgear, whether or not lined or trimmed. The EN to heading 6506, state that the heading covers safety headgear, for sporting activities, military or firemen's helmets, motor-cyclists', miners' or construction workers' helmets, whether or not fitted with protective padding.

The article in question is protective in that it shields the wearer's ears from blows which might result from balls thrown during a water polo match. Water polo is a sport played at close quarters and the head, in particular, is exposed. The ear guards therefore afford the wearer's ears modest protection. Since the cap is designed to protect the wearer while participating in a sporting event, we find it to be classified as other headgear of heading 6506, HTSUSA.

This holding is consistent with other Customs rulings in which water polo caps have been classified in heading 6506, HTSUSA, under the provision for safety headgear. See HQ 083434, December 4, 1989 and NY J81748, dated April 16, 2003. It is also consistent with the classification of helmets used to protect bikers and skaters from head injury in heading 6506, HTSUSA. See NY D82764, dated October 9, 1998 and NY C84665, dated April 22, 1998.

HOLDING:

NY F80551, dated December 29, 1999, is hereby revoked.

The water polo cap is classified in subheading 6506.10.6045, HTSUSA, which provides for "Other headgear, whether or not lined or trimmed: Safety headgear: Other: Other: Athletic, recreational and sporting headgear." The general column one rate of duty is free.

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*