

Article Descriptions: Getting It Right the First Time

Disclaimer:

This presentation is provided for your consideration in preparing a description of the article for which you are requesting a duty suspension or reduction.

Any information furnished to you in this presentation, by email, or otherwise by Commission staff in the course of reviewing your petition should not be regarded as a staff opinion or an indication that the Commission will consider the article description you provide to be one that is administrable by U.S. Customs and Border Protection or that otherwise meets the requirements of the American Manufacturing Competitiveness Act of 2016.

Definition

A written description of the discernable **physical characteristics** of your product at the time of importation, presented in the format it would appear in HTS chapter 99 and including all **applicable HTS subheading** number(s), and any standard identification numbers or names (e.g., **CAS number(s)** for chemicals).

Not the same as a product description!

Product Description	Article Description
<p>A narrative that provides other details about the product, such as possible uses.</p>	<p>A narrative for inclusion in an HTS heading in chapter 99 that is sufficient to distinguish your article from all other articles and that includes the HTS rate line where CBP classifies the product.</p>

What must you **INCLUDE**?

- Language that is **clear and administrable** by U.S. Customs and Border Protection
- **Physical characteristics** that describe your product at the time of importation
- All **applicable HTS subheading** number(s)
- Any standard identification numbers or names (e.g., **CAS number(s)** for chemicals)
- Any units of measurement expressed in **metric terms**

What must you AVOID?

- **“Use” descriptions.**

Descriptions that specify possible uses or users of the article (often indicated by “for use in” a certain application or “for use by” a type of user) as opposed to descriptions of the physical characteristics of the article.

- **Ambiguous terms.**

Descriptions using words and terms not found in existing HTS provisions and that may be ambiguous or require interpretation, including words such as “predominantly” and “primarily” or terms used in commercial marketing but not in the HTS or in CROSS rulings.

- **Restrictive terms.**

Descriptions that include trademarked or similarly protected terms or names, brand names, proprietary names, part numbers, or other company-specific names that would restrict, or effectively restrict, the use of a proposed chapter 99 provision to particular users.

- **Two+ products.**

Descriptions that include two or more distinct articles of commerce and thus have multiple/different HTS subheadings, rather than describe a single composite good that is dutiable based on its components.

❖ **ALSO REFER** to page 18 of the [Before You File](#) guide linked on the MTBPS homepage.

Some examples

Deficient article description	Problem presented	Corrected article description
Other baked goods (provided for in subheading XXXX.XX.XX)	Ambiguous. What does “other” mean? Specify what is being excluded.	Cakes, other than carrot or red velvet cakes (provided for in subheading XXX.XX.XX)
Footwear with outer soles of leather and uppers of leather, covering the ankle, NESOI (provided for in subheading 6403.51.90)	Ambiguous. What is covered in NESOI? Specify what is being excluded.	Footwear with outer soles of leather and uppers of leather, covering the ankle, other than for women (provided for in subheading 6403.51.90)
Collars for small dogs (provided for in subheading 4201.00.30)	Use provision. Which collars would be worn by small dogs? What does “small” mean? Provide the physical characteristics of the collars for small dogs—such as length of the collar or sizing by weight of the dog.	Dog collars, such articles at least 20.32 centimeters (8 inches) in length and less than 25.4 centimeters (10 inches) in length (provided for in subheading 4201.00.30) [Note: naming the material used to make the dog collar can narrow the scope.]

More examples

Deficient article description	Problem presented	Corrected article description
<p>Women’s ensembles of woven fabric of artificial fibers (provided for in subheading 6204.29.20)</p>	<p>Two+ products. What type of garments are in each ensemble? These garments are dutiable at the rates applicable to each garment in the ensemble, if imported separately, so include the type of garments in each ensemble and what provisions provide their duty rates.</p>	<p>Women’s ensembles of woven fabric of artificial fibers (provided for in subheading 6204.29.20), each comprising a skirt of a type described in subheading 6204.59.20 and a suit-type jacket or blazer of a type described in subheading 6204.39.30</p>
<p>Batteries of a kind used as the primary source of electrical power for electrically powered vehicles sourced in Spain (provided for in subheading 8507.30.40)</p>	<p>Ambiguous. How can we know which country the vehicle using the battery is from? Assuming the batteries enter separately from the vehicles, CBP will be unable to determine whether the batteries will be used on vehicles sourced from Spain or other countries.</p>	<p>Nickel-cadmium storage batteries of a kind used as the primary source of electrical power for electrically powered vehicles (provided for in subheading 8507.30.40)</p>
<p>Escalators, with steps not wider than 91.5 cm, Acme Corp. Model A1 (provided for in subheading 8428.40.00)</p>	<p>Restrictive terms. Company names and model designations cannot be used in article descriptions.</p>	<p>Escalators, with steps not wider than 91.5 cm (provided for in subheading 8428.40.00)</p>

REMEMBER!



- **Interagency review.** Even though Commission staff may alert you to possible deficiencies in your article description(s), U.S. Customs and Border Protection may also express a view.
- **Withdraw and refile.** If you need to modify your description, including to narrow or expand it, you must withdraw your petition and file a new petition that includes the modified description.

This must be done no later than 5:15 p.m. on December 12, 2016.

- **File NOW.** Commission staff *may* alert you to possible deficiencies in your article description as *time and resources permit*. Such time and resources may not be available towards the close of the petition submission period.
- **Additional questions?** Contact mtbinfo@usitc.gov