

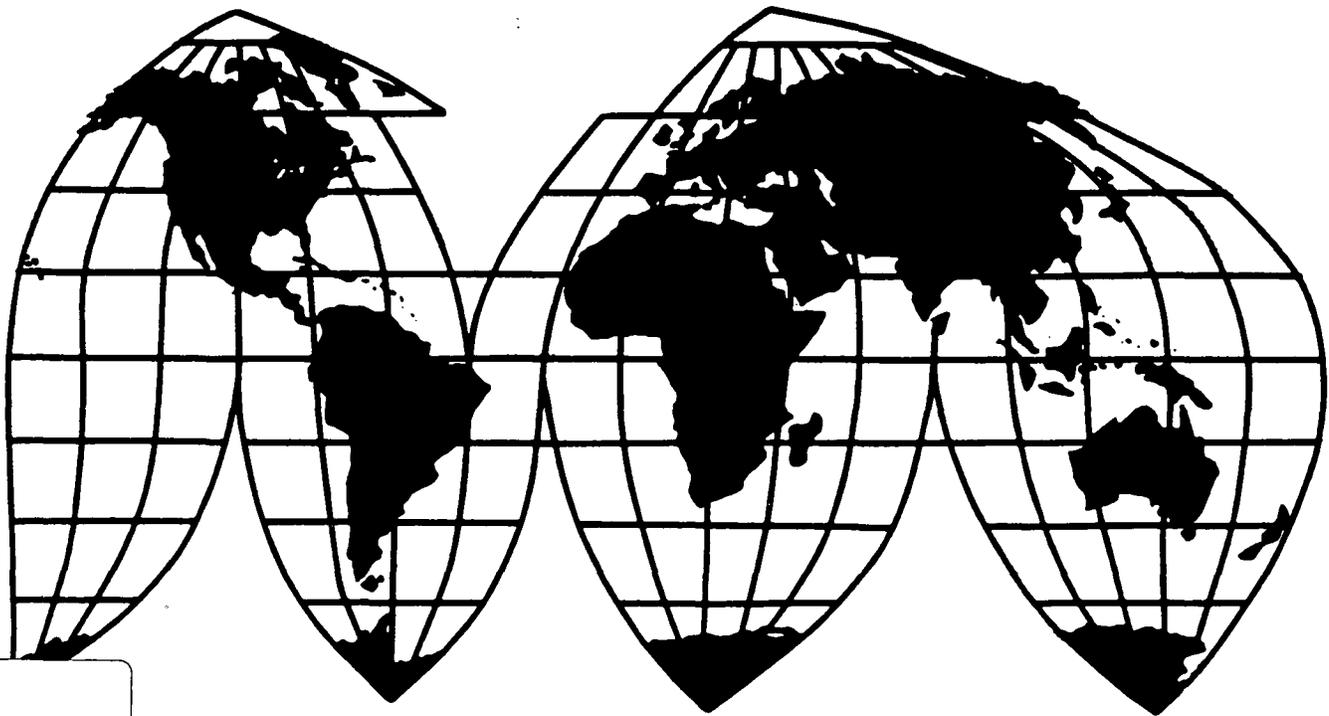
Proposed Modifications to the Harmonized Tariff Schedule of ~~the~~ United States

Addendum to the Report on
Investigation No. 1205-3

Publication 2830

December 1994

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Proposed Modifications to the Harmonized Tariff Schedule of the United States

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PREFACE

On September 1, 1994, the U.S. International Trade Commission (Commission) re-opened investigation No. 1205-3, Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988. Section 1205 directs the Commission to keep the *Harmonized Tariff Schedule of the United States (HTS)* under continuous review and to recommend modifications of the *HTS* to the President (1) when amendments to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System or HS) are recommended by the Customs Co-operation Council (CCC) for adoption and (2) as other circumstances warrant.

Consequent to its investigation, the Commission recommends that the President proclaim the modifications to the *HTS* set forth in this addendum to its original report on investigation No. 1205-3. The Commission considers these modifications necessary or appropriate to conform the *HTS* with amendments to the HS convention recommended by the CCC, and to promote the uniform application of the Harmonized System nomenclature.

In accordance with section 1205, the Commission solicited, and gave consideration to, the views of interested Federal agencies and the public before proposing recommendations to the *HTS*. Further, this addendum to the Commission's report to the President presents the recommendations, summarizes the information on which its recommendations are based and provides a statement of the probable economic effects of the recommended changes on any industry in the United States. A copy of all written comments received from interested parties is also included.

Notice of the re-opening of this investigation was published in the *Federal Register* of September 21, 1994, and made reference to a draft of proposed modifications, which was made available for the purpose of soliciting public comment. The information contained in this addendum was obtained from (1) research by the Commission's staff, (2) the Commission's files, (3) consultations with various Federal agencies, (4) written submissions of interested parties, and (5) other sources.

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RECOMMENDATIONS

On September 1, 1994, the U.S. International Trade Commission (Commission) re-opened investigation No. 1205-3, Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988. The Commission's notice of re-opening of this investigation is reproduced in appendix G.

Consequent to its investigation, the Commission recommends that the President proclaim the modifications to the *Harmonized Tariff Schedule of the United States (HTS)* set forth in appendix B of this addendum. The Commission considers these modifications necessary or appropriate to conform the *HTS* with amendments to the Harmonized System Convention recommended by the Customs Co-operation Council (CCC), and to promote the uniform application of the Harmonized System nomenclature. The modifications are being recommended pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (act) (19 U.S.C. 3005).

BACKGROUND

In August 1993, the Commission published its report on investigation No. 1205-3, Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988. Section 1205 directs the Commission to keep the *HTS* under continuous review and to recommend modifications of the *HTS* to the President (1) when amendments to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System or HS)¹ are recommended by the CCC for adoption² and (2) as other circumstances warrant.

Pursuant to section 1206 of the act, the President may proclaim modifications to the *HTS* (on the basis of recommendations by the Commission under section 1205) if he determines that the modifications are in conformity with U.S. obligations under the HS

¹ The act implemented the *HTS* in conformity with the requirements of the HS convention.

² Article 2 of the HS convention provides that the HS nomenclature annexed thereto forms a part of the convention and any reference to the convention includes a reference to the annex.

convention and do not run counter to the U.S. economic interest. The President may proclaim such modifications only after the expiration of a 60-legislative-day lay-over period,³ beginning on the date he submits a report to the House Ways and Means Committee and the Senate Finance Committee that sets forth the proposed modifications and the reasons therefor. Modifications proclaimed by the President may not become effective before the 15th day after the proclamation is published in the *Federal Register*.

Subsequent to submitting its report on investigation No. 1205-3 to the President, the Commission received a notification from the CCC (see appendix C) indicating that certain recommended amendments to the Harmonized System convention had not been accepted by the contracting parties to that convention and, therefore, will not take effect. Consequently, certain modifications to the *HTS* recommended in the Commission's initial report will need to be deleted. In addition, the Commission has received further information concerning the tariff treatment accorded by the U.S. Customs Service to certain other products. This additional information and certain technical modifications necessary to conform our report to the formally approved CCC version of amendments should also be reflected in the Commission's report.

For these reasons, the Commission re-opened its investigation with respect to the matter outlined above for the purpose of issuing an addendum to its report on investigation No. 1205-3.

This addendum contains an explanation of the proposed changes to the report on investigation No. 1205-3 (see appendix A), followed by revised pages to the affected portions of appendix B of the August 1993 report (Commission's Proposed Modifications to the *HTS*) (see appendix B). The revised material is indicated by shaded text. For ease of reference and further background information, it is suggested that the modifications proposed in this addendum be read in conjunction with the Commission's original report on this investigation (USITC publication 2673).

³ The length of the "60-day" period is longer than 60 calendar days because the period is defined by section 1206(b)(2) as excluding—

“(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress *sine die*; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.”

PROPOSED MODIFICATIONS

The following is a brief explanation of the proposed modifications.

Amendments proposed by the CCC but not accepted by the contracting parties to the HS Convention

The majority of the proposed modifications to the Commission's report result from the nonacceptance by the contracting parties of certain proposed amendments to the Harmonized System nomenclature and from technical and editorial amendments appearing in the final CCC recommendation. The amendments not accepted by the contracting parties principally concerned:

1. subdivision of refined petroleum products under heading 27.10;
2. revision of the subheadings for oxygen-function amino compounds under heading 29.22;
3. subdivision of the provision for acrylic polymers under subheading 3906.90;
4. modification of the chapter 61 and 62 notes concerning the definition of ensembles;
5. creation of new subdivisions for high-definition television apparatus under headings 85.28 and 85.40; and
6. transfer of certain optical fiber cables from heading 85.44 to heading 90.01.

The CCC notifications of the nonacceptance of the amendments and of the consequential editorial and technical corrections are reproduced in appendixes C and D.

Snowboard boots

Several of the proposed modifications to chapter 64 of the *HTS* relate to a change in the tariff treatment accorded by the U.S. Customs Service to snowboard

boots. In November 1993, the U.S. Customs Service reclassified snowboard boots as ski boots (see Customs ruling 955260 of November 3, 1993, copy attached as appendix E), thus requiring further modifications to the Commission's report.

Still-image video cameras

A further modification concerns the rates of duty to be assigned to still-image video cameras. Subsequent to a ruling by the U.S. Court of International Trade, the U.S. Customs Service has now informed the Office of the United States Trade Representative that the same rates of duty are being applied to still image video cameras as to other video camera recorders (see appendix F) thus eliminating the need for separate rate lines for these products. The Commission has, therefore, recommended deletion of the proposed separate provision for still image video cameras provided in its August 1993 report.

Power supplies for ADP machines

A number of additional changes are proposed in order to clarify the classification of power supplies for automatic data processing machines. As a result of the amendment of Note 5 to chapter 84 of the Harmonized System by the final CCC recommendation, these power supplies will be classified under HS subheading 8504.40. Proposed *HTS* subheadings 8471.80.20 and 8471.80.30 recommended by the Commission in its August 1993 report were therefore inappropriate, and their content has been transferred to proposed new *HTS* subheadings 8504.40.60 and 8504.40.90, respectively.

A number of private sector comments were received concerning these proposed changes (see appendix H). The concern was expressed in those comments that the existing *HTS* provision (8471.99.32) for "power supply units suitable for physical incorporation into automatic data processing machines or units thereof" had only recently been incorporated into the *HTS* (in 1991) to reflect the results of a U.S. court case which held that such power supplies were not rectifiers or rectifying apparatus, while the CCC was now providing for these units in the subheading for "static converters (for example, rectifiers)". In addition, it was noted that the proposed new subheading for these power supplies left out power supplies for *units* of automatic data processing machines, which had been covered by the existing *HTS* provision.

Under section 1205 of the Act the Commission is directed to recommend to the President such

modifications in the *HTS* as the Commission considers necessary or appropriate to conform the *HTS* with amendments made to the HS convention. While the Commission is well aware of the history of *HTS* subheading 8471.99.32, it cannot ignore the fact that the accepted CCC recommendation and its accompanying *Explanatory Notes* clearly exclude power supplies for automatic data processing machines from HS chapter 84 and provide for their classification as static converters in HS subheading 8504.40. Accordingly, conformity with the HS amendment requires that the power supplies in question be classified under subheading 8504.40. In order to accomplish the transfer and in view of the past history of this question in the United States, the Commission has proposed a new Additional U.S. Note to Chapter 85 which would specifically include power supplies for automatic data processing machines and units thereof in subheading 8504.40.

The Commission also agrees that the *HTS* subheading for power supplies suitable for physical incorporation into automatic data processing machines should also reference power supplies for units of automatic data processing machines and has amended the proposed subheading text accordingly.

Cordless handset telephones

Finally, a correction is proposed with respect to the classification of cordless handset telephones. As a result of the amendment of heading 85.17 of the Harmonized System by the final recommendation, cordless handset telephones will be classified under subheading 8517.11. Accordingly, present *HTS* subheadings 8525.20.50 and 8525.20.60 should be deleted, with their content being transferred to proposed new subheadings *HTS* 8517.11.00 and 8525.20.90, respectively.

PROBABLE ECONOMIC EFFECTS OF PROPOSED MODIFICATIONS

In the Commission's judgment, the proposed modifications do not alter existing Customs tariff treatment of the commodities involved. Furthermore, the modifications do not alter existing conditions of competition for the affected U.S. industry, labor or trade. Consequently, it is believed that the modifications, if proclaimed, would ensure substantial rate neutrality and would have no significant economic effect on U.S. industry or labor.

**APPENDIX A
EXPLANATION OF CHANGES
TO THE REPORT ON
INVESTIGATION NO. 1205-3**

EXPLANATION OF THE CHANGES TO THE REPORT ON INVESTIGATION NO. 1205-3

Item 4-1, page B-8:

Change: Replaced the expression "contain emulsifiers" with the expression "contain added emulsifiers"

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 11-1, page B-12:

Change: Replaced the expression "flattened, in flakes or ground" with the expression "rolled, flaked or ground".

Reason: Additional amendment to the legal text of the Harmonized System made by corrigendum. Approved by the Harmonized System Committee of the Customs Co-operation Council at its 13th Session.

Item 15-4, page B-14:

Change: Replaced the reference to subheading "1519.30.60" with "1519.20.60"

Reason: Correction of subheading reference.

Item 27-1, page B-19:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 27-2, pages B-20 and B-21:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 29-13, page B-26:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 29-15, page B-26:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 29-16, page B-26:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 38-6, page B-36:

Change: Renumbered subheadings 3823.20, 3823.20.20, 3823.20.40 and 3823.20.60 as subheadings 3823.70, 3823.70.20, 3823.70.40 and 3823.70.60, respectively.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 39-7, page B-39:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 44-3, page B-44:

Change: Modified new subheading note 1 to chapter 44 by replacing the reference to subheading "4407.23" with "4407.24".

Reason: Additional amendment to the legal text of the Harmonized System made by corrigendum. Approved by the Harmonized System Committee of the Customs Co-operation Council at its 13th Session.

Item 44-3, page B-44:

Change: Modified new subheading note 1 to chapter 44 by replacing the reference to subheading "4412.11" with "4412.13" and inserting "Palissandre de Rio" in alphabetical order in the enumeration of tropical woods.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 44-8 page B-46:

Change: Renumbered subheadings 4412.11, 4412.11.05, 4412.11.25, 4412.11.30, 4412.11.55, 4412.12, 4412.12.05, 4412.12.25, 4412.12.30 and 4412.12.55 as subheadings 4412.13, 4412.13.05, 4412.13.25, 4412.13.30, 4412.13.55, 4412.14, 4412.14.05, 4412.14.25, 4412.14.30 and 4412.14.55, respectively.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Items 52-4 and 52-5, page B-55

Change: Items added. To conform the article descriptions to the new definition for denim.

Reason: Consequential change resulting from the changes made under item 52-1.

Item 56-1, page B-57:

Change: Modified the text of subheading 5603.1 by replacing the term "filament" with the term "filaments".

Reason: Additional amendment to the legal text of the Harmonized System made by corrigendum. Approved by the Harmonized System Committee of the Customs Co-operation Council at its 13th Session.

Item 61-1, pages B-59 and B-60:

Change: Deleted subparagraph (b) to note 3 to chapter 61.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 62-1, pages B-61 and B-62:

Change: Deleted subparagraph (b) to note 3 to chapter 62.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Items 64-4, page B-63

Change: Modified note 3 to chapter 64 by replacing the word "expression" with the word "term" in the subparagraph (b).

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 64-4a, page B-63

Change: Item added. Modified subheading note 1 to chapter 64 to correct the subheading references.

Reason: Additional amendment to the legal text of the Harmonized System made by corrigendum. Approved by the Harmonized System Committee of the Customs Co-operation Council at its 13th Session.

Item 64-5a, page B-63

Change: Item added. Modified subheading text to reflect dutiability of snowboard boots at the same rate of duty as ski boots.

Reason: Modification to reflect a recent change of practice by the U.S. Customs Service regarding the tariff treatment of snowboard boots.

Item 64-6, page B-64:

Change: Replaced subheadings 6402.12.10 (snowboard boots) and 6402.12.60 (ski boots and cross-country ski footwear) by a single subheading (6402.12.00).

Reason: Modification to reflect a recent change of practice by the U.S. Customs Service regarding the tariff treatment of snowboard boots.

Item 64-7, page B-64:

Change: Deleted subheadings 6403.12.10 and 6403.12.15, and the superior text thereto (snowboard boots). Deleted the superior text preceding subheading 6403.12.15 (other). Renumbered subheadings 6403.12.15 and 6403.12.20 as subheadings 6403.12.30 and 6603.12.60, respectively.

Reason: Modification to reflect a recent change of practice by the U.S. Customs Service regarding the tariff treatment of snowboard boots.

Item 64-8, page B-65:

Change: Item deleted.

Reason: Change no longer required due to a recent change of practice by the U.S. Customs Service regarding the tariff treatment of snowboard boots.

Item 70-1, page B-66:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 70-2, page B-66:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 70-5, page B-66:

Change: Item modified to indicate that subheading 7003.11.00 was renumbered as 7003.12.00.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 70-7, page B-66:

Change: Item modified to indicate that subheading 7004.10 was renumbered as 7004.20.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 70-8, page B-66:

Change: Item modified to indicate that subheading 7004.10.10 was renumbered as 7004.20.10.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 70-8a, page B-66:

Change: Item added. Subheadings 7404.10.20 and 7404.10.50 renumbered as 7404.20.20 and 7404.20.50.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item XV-2, page B-72:

Change: Item modified by changing the reference to "Note 5 (renumbered 6)" to a reference to "Present note 4 (renumbered as new note 6)".

Reason: To correct reference to note 4.

Item 72-5, page B-74:

Change: Modified footnotes 374 and 375 by deleting references to subheadings 7208.31.00 and 7408.41.00.

Reason: Correction.

Item 72-5, page B-75:

Change: Modified footnotes 377 and 378 by adding references to subheading 7208.41.00.

Reason: Correction.

Item 72-12, page B-79:

Change: Renumbered subheadings 7214.41.00 and 7214.49.00 as subheadings 7214.91.00 and 7214.99.00, respectively.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 72-12, page B-79:

Change: Modified footnote 423 by adding a reference to subheading 7216:50.00.

Reason: Correction.

Item 72-20, page B-83:

Change: Renumbered subheadings 7225.11.90 and 7225.19.90 as subheadings 7226.11.90 and 7226.19.90, respectively.

Reason: Correction.

Item 73-3, page B-84:

Change: Renumbered subheading 7314.14.00 as 7314.13.00.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 73-3, page B-85:

Change: Renumbered subheadings 7314.16, 7314.16.10, 7314.16.20, 7314.16.30, 7314.16.60, 7314.16.90 and 7314.18.00 as subheadings 7314.14, 7314.14.10, 7314.14.20, 7314.14.30, 7314.14:60, 7314.14.90 and 7314.19.00, respectively. Modified the article description of subheading 7314.18.00 (renumbered as 7314.19.00) by deleting the expression "woven cloth" at the end.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 84-6, page B-92:

Change: Modified new subheading note 1 to chapter 84 by replacing the expression "e.g." with the expression "for example", wherever it occurs.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 84-25, page B-98:

Change: Deleted subheadings 8471.80.20 and 8471.80.30, and the superior text thereto (power supplies).

Reason: Provisions not necessary. As a result of the modifications to note 5 to chapter 84, regarding the classification of power supplies for ADP machines, the articles in question will be classified under subheading 8504.40.

Item 85-2, page B-99:

Change: Inserted quotation marks around the phrase "spent primary cells, spent primary batteries and spent electric storage batteries".

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 85-3a, page B-100:

Change: Item added. To insert a new additional U.S. note to ensure that power supplies for ADP machines and units thereof, not entered with the rest of an ADP system, will be classified in subheading 8504.40.

Reason: As a result of the modifications to note 5 to chapter 84, power supplies for ADP machines and units thereof will be classified under subheading 8504.40, unless they are entered with the rest of an ADP system.

Item 85-4a, page B-100:

Change: Item added. To insert a new provision for power supplies for ADP machines and units thereof.

Reason: As a result of the modifications to note 5 to chapter 84, power supplies for ADP machines and units thereof will be classified under subheading 8504.40, unless they are entered with the rest of an ADP system.

Item 85-20a, page B-104:

Change: Item added. To delete provision for cordless handset telephones from heading 8525.

Reason: As a result of modifications to the text of heading 85.17, cordless handset telephones will be classified under subheading 8517.11.00. (See item 85-10.)

Item 85-21, Page B-105:

Change: Combined proposed subheadings 8525.40.40 and 8525.40.80 into subheading 8525.40.00, with rates of duty derived from subheading 8525.30.00. Deleted footnote number 625.

Reason: The U.S. Customs Service has settled the classification of still image video cameras, based on a ruling by the U.S. Court of International Trade. Since this results in the same rates of duty being applied to still image video cameras and other video camera recorders, it is no longer necessary to propose that the two products be separately provided for.

Item 85-24, page B-106:

Change: Deleted subheading 8528.11.00 (high-definition television). Changed the text of subheading 8528.12 from "Other, color" to "Color". Changed the text of subheading 8528.13.00 from "Other, black and white or other monochrome" to "Black and white or other monochrome".

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 85-28, page B-107:

Change: Deleted subheadings 8540.12 through 8540.20.40 and the superior texts thereto.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 85-29, page B-108:

Change: Inserted the phrase "(and the superior text thereto)" in the introduction to the modification. Modified the article description of subheading 8542.13.00 by the replacement of the term "technologies" with the term "technology". Modified the article description of subheading 8542.14.00 by the replacement of the term "Bipolar" with the expression "Circuits obtained by bipolar technology". Modified the article description of subheading 8542.19.00 by the insertion the expression "(BIMOS technology)" at the end.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 85-33, page B-109:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 85-34, page B-109:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 85-35, page B-110:

Change: Modified subheadings 8548.10.10 and 8548.10.20 by the deletion of the superior heading immediately preceding subheading 8548.10.10.

Reason: Correction.

Item 88-3, page B-111:

Change: Item modified to indicate that subheading 8802.50 was renumbered as 8802.60.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 88-3a, page B-111:

Change: Item added.

Reason: Change in the Recommendation by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 90-1, page B-111:

Change: Deleted the amendment regarding optical fiber cables.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 90-2, page B-111:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 90-3, page B-112:

Change: Item deleted.

Reason: Objection by an HS Contracting Party to the amendment recommended by the Customs Co-operation Council under Article 16 of the Harmonized System Convention.

Item 98-5, page B-117:

Change: Deleted modification related to subheading 8544.70.

Reason: Consequential change resulting from the changes made under item 85-34.

Item 98-9, page B-118:

Change: Added reference to subheading 8544.70 in the text to be inserted.

Reason: Consequential change resulting from the changes made under item 85-34.

Item 99-1, page B-118:

Change: Item deleted.

Reason: Consequential change resulting from the changes made under item 27-2.

Item 99-14a, page B-119:

Change: Item added.

Reason: Consequential change resulting from the changes made under item 56-1.

Item 99-19a, page B-120:

Change: Item added.

Reason: Consequential change resulting from the changes made under new item 85-4a.

Item 99-19b, page B-120:

Change: Item added.

Reason: Consequential change resulting from the changes made under new item 85-4a.

Item 99-20, page B-120:

Change: Item deleted.

Reason: Consequential change resulting from the changes made under item 85-28.

Item 99-28, page B-120:

Change: Deleted reference to subheading 8528.11.00.

Reason: Consequential change resulting from the changes made under item 85-24.

Item 99-34a, page B-121:

Change: Item added.

Reason: Consequential change resulting from the changes made under item 54-1.

**APPENDIX B
REVISED PAGES TO AFFECTED
PORTIONS OF APPENDIX B
OF THE AUGUST 1993 REPORT
(COMMISSION'S PROPOSED
MODIFICATIONS TO THE *HTS*)**

CHAPTER 4

4-1. Notes 2 and 3 to chapter 4 are renumbered as 3 and 4, respectively, and the following new note 2 is inserted:

"2. For the purposes of heading 0405:

- (a) The term "butter" means natural butter, whey butter or recombined butter (fresh, salted or rancid, including canned butter) derived exclusively from milk, with a milkfat content of 80 percent or more but not more than 95 percent by weight, a maximum milk solids-not-fat content of 2 percent by weight and a maximum water content of 16 percent by weight. Butter does not contain ~~added~~ emulsifiers, but may contain sodium chloride, food colors, neutralizing salts and cultures of harmless lactic-acid-producing bacteria.
- (b) The expression "dairy spreads" means a spreadable emulsion of the water-in-oil type, containing milkfat as the only fat in the product, with a milkfat content of 39 percent or more but less than 80 percent by weight."

4-2. The following new subheading note 2 to chapter 4 is inserted:

"2. For the purposes of subheading 0405.10 the term "butter" does not include dehydrated butter or ghee (subheading 0405.90)."

4-3. Heading 0405.00 and subheadings 0405.00.70 through 0405.00.80 are superseded by the following:

"0405	Butter and other fats and oils derived from milk; dairy spreads:			
0405.10	Butter:			
0405.10.10 ³¹	Described in additional U.S. note 1(b) to this chapter.....	12.3¢/kg	Free (E,IL,J) 2.4¢/kg (CA)	30.9¢/kg
0405.10.20 ³²	Other.....	30.9¢/kg	Free (E,IL,J) 6.1¢/kg (CA)	30.9¢/kg
0405.20.00 ³³	Dairy spreads.....	10%	Free (A,E,IL,J) 2X (CA)	20%
0405.90.00 ³⁴	Other.....	10%	Free (E,IL,J) 2X (CA)	20%"

³¹ ex 0405.00.70
³² ex 0405.00.75
³³ ex 2106.90.65
³⁴ ex 0405.00.80

CHAPTER 9

9-1. Subheadings 0901.30.00 and 0901.40.00 are superseded by the following:

[Coffee, whether or not roasted...]			
Other:			
"0901.90			
0901.90.10 ⁵⁷	Coffee husks and skins.....	Free	10%
0901.90.20 ⁵⁸	Coffee substitutes containing coffee....	3.3¢/kg	Free (CA,E,IL,J) 6.6¢/kg"

CHAPTER 11

11-1. Note 2 to chapter 11 is modified by adding the following new sentence after the last sentence in paragraph (A) of that note:

"However, germ of cereals, whole, ~~rolled, flaked or ground~~ is always classified in heading 1104."

11-2. The article description of heading 1105 is superseded by the following:

"Flour, meal, powder, flakes, granules and pellets of potatoes:"

11-3. The article description of subheading 1105.10.00 is superseded by the following:

"Flour, meal and powder"

11-4. The article description of heading 1106 is superseded by the following:

"Flour, meal and powder of the dried leguminous vegetables of heading 0713, of sago or of roots or tubers of heading 0714 or of the products of chapter 8:"

11-5. The article description of subheading 1106.10.00 is superseded by the following:

"Of the dried leguminous vegetables of heading 0713"

11-6. The article description of subheading 1106.20.00 is superseded by the following:

"Of sago or of roots or tubers of heading 0714"

11-7. The article description of subheading 1106.30 is superseded by the following:

"Of the products of chapter 8:"

⁵⁷ ex 0901.30.00

⁵⁸ ex 0901.40.00

15-3. The article description of heading 1502.00.00 is superseded by the following:

"Fats of bovine animals, sheep or goats, other than those of heading 1503"

15-4. Heading 1519 and subheadings 1519.11.00 through ~~1519.20.60~~ are deleted.

15-5. Heading 1520 and subheadings 1520.10.00 and 1520.90.00 are superseded by the following:

"1520.00.00 ⁶¹	Glycerol, crude; glycerol waters and glycerol lyes.....	0.4¢/kg	Free (A,CA,E, IL,J)	2.2¢/kg"
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CHAPTER 16

16-1. Note 1 to chapter 16 is modified by inserting the expression "or heading 0504" after the expression "chapter 2 or 3".

16-2. The following new subheading is inserted in numerical order:

"1602.32.00 ⁶²	[Other prepared or preserved meat...:] [Of poultry of heading 0105:] Of chickens.....	10X	Free (A,E,IL,J) 2X (CA)	20X"
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CHAPTER 17

17-1. Subheading 1702.10.00 is superseded by the following:

"1702.11.00 ⁶³	[Other sugars, including chemically pure...:] "Lactose and lactose syrup: Containing by weight 99 percent or more lactose, expressed as anhydrous lactose, calculated on the dry matter.....	10X	Free (E,IL,J) 2X (CA)	50X"
1702.19.00 ⁶⁴	Other.....	10X	Free (E,IL,J) 2X (CA)	50X"

CHAPTER 19

19-1. Note 3 to chapter 19 is superseded by the following:

"3. Heading 1904 does not cover preparations containing more than 6 percent by weight of cocoa calculated on a totally defatted basis or coated with chocolate or other food preparations containing cocoa of heading 1806 (heading 1806)."

⁶¹ ex 1520.10.00; content of 1520.90 being transferred to chapter 29

⁶² ex 1602.39.00

⁶³ ex 1702.10.00

⁶⁴ ex 1702.10.00

CHAPTER 27

27-1. ~~[Proposed modifications deleted]~~

27-2. ~~Proposed modifications deleted~~

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[Proposed modifications deleted]

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 - 105 [Deleted]

29-13. [Proposed modifications deleted]

29-14. The following new subheading 2922.19.13 is inserted in numerical order:

	[Oxygen-function amino-compounds:]			
	[Amino-alcohols, other than those...:]			
	[Other:]			
	[Aromatic:]			
	[Drugs:]			
2922.19.13 ¹³⁰	Propranolol hydrochloride.....	6.7%	Free (CA,E,IL,J)	15.4¢/kg + 47%

29-15. [Proposed modifications deleted]

29-16. [Proposed modifications deleted]

29-17. The following new subheadings 2922.43, 2922.43.10 and 2922.43.50 are inserted in numerical order:

	[Oxygen-function amino-compounds:]			
	[Amino-acids, other than those...:]			
"2922.43	Anthranilic acid and its salts:			
2922.43.10 ¹³¹	Products described in additional U.S. note 3 to section VI.....	13.5%	Free (CA,E,IL,J)	15.4¢/kg + 50%
2922.43.50 ¹³²	Other.....	3.7¢/kg + 15.6%	Free (CA,E,IL,J)	15.4¢/kg + 50%

29-18. The article description of subheading 2922.49.10 is modified by inserting the following chemical name in alphabetical order:

"β-(β-Methoxyethoxyethyl)-4-aminobenzoate;"

29-19. The article description of subheading 2922.50.10 is modified by deleting the chemical name, "β-(β-Methoxyethoxyethyl)-4-aminobenzoate;"

29-20. The article description of subheading 2922.50.13 is modified by deleting the chemical name, "Propranolol hydrochloride;"

¹³⁰ ex 2922.50.13
¹³¹ ex 2922.49.30
¹³² ex 2922.49.35

3823.70	Industrial fatty alcohols:			
	Derived from fatty substances of animal			
	or vegetable origin:			
3823.70.20 ¹⁷³	Oleyl alcohol.....	7.8%	Free (E,IL,J)	39.5%
			1.5% (CA)	
3823.70.40 ¹⁷⁴	Other.....	5%	Free (E,IL,J)	25%
			1% (CA)	
3823.70.60 ¹⁷⁵	Other.....	3.7%	Free (E,IL,J)	25%"
			0.7% (CA)	

38-7. The following new subheadings 3824.71.00 and 3824.79.00 are inserted in numerical order:

	[Prepared binders...:]			
	"Mixtures containing perhalogenated deriva-			
	tives of acyclic hydrocarbons containing			
	two or more different halogens:			
3824.71.00 ¹⁷⁶	Containing acyclic hydrocarbons			
	perhalogenated only with fluorine and			
	chlorine.....	3.7%	Free (CA,E,IL,J)	25%
3824.79.00 ¹⁷⁷	Other.....	3.7%	Free (CA,E,IL,J)	25%"

CHAPTER 39

39-1. Subparagraph (d) of note 2 to chapter 39 is superseded by the following:

"(d) Solutions (other than collodions) consisting of any of the products specified in headings 3901 to 3913 in volatile organic solvents when the weight of the solvent exceeds 50 percent of the weight of the solution (heading 3208); stamping foils of heading 3212;"

39-2. Subparagraphs (g) through (v) of note 2 to chapter 39 are redesignated as (h) through (w), respectively, and the following new subparagraph (g) is inserted:

"(g) Diagnostic or laboratory reagents on a backing of plastics (heading 3822);"

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- 173 ex 1519.30.20
 - 174 ex 1519.30.40
 - 175 ex 1519.30.60
 - 176 ex 3823.90.4710
 - 177 ex 3823.90.4750

3905.91.10 ¹⁸⁵	Containing by weight 50 percent or more of derivatives of vinyl acetate.....	4%	Free (A,CA,E,IL,J)	37.5%
3905.91.50 ¹⁸⁶	Other.....	5.3%	Free (A,CA,E,IL,J)	43.5%
3905.99.00 ¹⁸⁷	Other.....	5.3%	Free (A,CA,E,IL,J)	43.5%

39-7. ~~Proposed modifications deleted~~

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CHAPTER 40

40-1. Subheadings 4010.10 through 4010.99.50 are superseded by the following:

	[Conveyor or transmission belts...:]			
	"Conveyor belts or belting:			
4010.11.00 ¹⁹⁴	Reinforced only with metal.....	4.2%	Free (A,E,IL,J) 0.8% (CA)	25%
4010.12	Reinforced only with textile materials: With textile components in which vegetable fibers predominate by weight over any other single textile fiber:			
4010.12.10 ¹⁹⁵	Of trapezoidal cross section (V-belts and V-belting).....	5.1%	Free (B,E,IL,J) 1% (CA)	30%
4010.12.15 ¹⁹⁶	Other.....	5.1%	Free (A,E,IL,J) 1% (CA)	30%

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- 185 ex 3905.90.10
 - 186 ex 3905.90.50
 - 187 ex 3905.90.50
 - 188 [Deleted]
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 - 191 [Deleted]
 - 192 [Deleted]
 - 193 [Deleted]
 - 194 ex 4010.10.5090, 4010.91.5090, 4010.99.5090
 - 195 ex 4010.10.1010
 - 196 ex 4010.91.11, 4010.99.11

44-3.²²⁷ The following new subheading note 1 to chapter 44 is inserted after note 6 to chapter 44:

"Subheading Note

1. For the purposes of subheadings 4403.41 to 4403.49, ~~4407.24~~ to 4407.29, 4408.31 to 4408.39 and ~~4412.13~~ to 4412.99, the expression "tropical wood" means one of the following types of wood:

Abura, Acajou d'Afrique, Afrormosia, Ako, Alan, Andiroba, Aningré, Avodiré, Azobé, Balau, Balsa, Bossé clair, Bossé foncé, Cativo, Cedro, Dabema, Dark Red Meranti, Dibétou, Doussié, Framiré, Freijo, Fromager, Fuma, Geronggang, Ilomba, Imbuia, Ipé, Iroko, Jaboty, Jelutong, Jequitiba, Jongkong, Kapur, Kempas, Keruing, Kosipo, Kotibé, Koto, Light Red Meranti, Limba, Louro, Maçaranduba, Mahogany, Makoré, Mansonia, Mengkulang, Meranti Bakau, Merawan, Merbau, Merpauh, Mersawa, Moabi, Niangon, Nyatoh, Obeche, Okoumé, Onzabili, Orey, Ovengkol, Ozigo, Padauk, Paldao, Palissandre de Guatemala, Palissandre de Para, ~~Palissandre de Rio~~, Palissandre de Rose, Pau Marfim, Pulai, Puna, Ramin, Sapelli, Saqui-Saqui, Sepetir, Sipo, Sucupira, Suren, Teak, Tiama, Tola, Virola, White Lauan, White Meranti, White Seraya, Yellow Meranti."

44-4. Subheadings 4403.31.00 (and the superior text thereto) through 4403.35.00 are superseded by the following:

	[Wood in the rough, whether or not stripped...:]		
	"Other, of tropical wood specified in subheading note 1 to this chapter:		
4403.41.00 ²²⁸	Dark Red Meranti, Light Red Meranti and Meranti Bakau.....	Free	Free
4403.49.00 ²²⁹	Other.....	Free	Free"

²²⁷ In a written submission, Russell Stadelman, Inc. sought a note to the HTS to clarify that the term "virola" in new subheading note 1 to chapter 44 includes woods called "white virola". However, the scope of the term "virola", as used in new subheading note 1, appears to have differing meanings, depending upon the reference consulted. The Commission is reluctant to propose a note which may be inconsistent with the HS Convention and believes this question should be pursued at the CCC.

²²⁸ ex 4403.31.00

²²⁹ ex 4403.32.00, 4403.33.00, 4403.34.00, 4403.35.00, 4403.99.0091

44-8. Subheadings 4412.11 through 4412.99.90 are superseded by the following:

	[Plywood, veneered panels and similar laminated...:]		
	[Plywood consisting solely of sheets of...:]		
"4412.13	With at least one outer ply of tropical wood specified in subheading note 1 to this chapter:		
	Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply:		
4412.13.05 ²³⁸	With a face ply of birch (<u>Betula</u> spp.).....	3%	Free (A,CA,E, IL,J) 50%
4412.13.25 ²³⁹	With a face ply of Spanish cedar (<u>Cedrela</u> spp.) or walnut (<u>Juglans</u> spp.).....	8%	Free (A,CA,E, IL,J) 40%
4412.13.50 ²⁴⁰	Other.....	8%	Free (A*,CA,E, IL,J) 40%
4412.13.75 ²⁴¹	Other.....	8%	Free (A*,CA,E, IL,J) 40%
4412.14	Other, with at least one outer ply of nonconiferous wood:		
	Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply:		
4412.14.05 ²⁴²	With a face ply of birch (<u>Betula</u> spp.).....	3%	Free (A,CA,E, IL,J) 50%
4412.14.25 ²⁴³	With a face ply of Spanish cedar (<u>Cedrela</u> spp.) or walnut (<u>Juglans</u> spp.).....	8%	Free (A,CA,E, IL,J) 40%
4412.14.50 ²⁴⁴	Other.....	8%	Free (A*,CA,E, IL,J) 40%
4412.14.75 ²⁴⁵	Other.....	8%	Free (A*,CA,E, IL,J) 40%

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- 238 ex 4412.11.10, 4412.12.10
 - 239 ex 4412.11.20, 4412.12.15; part of the products included in this heading are ineligible for GSP treatment.
 - 240 ex 4412.11.20, 4412.12.20; part of the products in this subheading are ineligible for GSP treatment.
 - 241 ex 4412.11.50, 4412.12.50
 - 242 ex 4412.12.10
 - 243 ex 4412.12.15
 - 244 ex 4412.12.20
 - 245 ex 4412.12.50

52-2. Subheading 5205.25 is superseded by the following:

	[Cotton yarn (other than sewing thread)...:]			
	[Single yarn, of combed fibers:]			
"5205.26.00 ²⁷⁹	Exceeding 80 nm but not exceeding 94 nm.....	12%	Free (IL) 2.4% (CA)	34.1%
5205.27.00 ²⁸⁰	Exceeding 94 nm but not exceeding 120 nm.....	12%	Free (IL) 2.4% (CA)	34.1%
5205.28.00 ²⁸¹	Exceeding 120 nm.....	12%	Free (IL) 2.4% (CA)	34.1%"

52-3. Subheading 5205.45 is superseded by the following:

	[Cotton yarn (other than sewing thread)...:]			
	[Multiple (folded) or cabled yarn, of combed fibers:]			
"5205.46.00 ²⁸²	Exceeding 80 nm but not exceeding 94 nm per single yarn.....	12%	Free (IL) 2.4% (CA)	34.1%
5205.47.00 ²⁸³	Exceeding 94 nm but not exceeding 120 nm per single yarn.....	12%	Free (IL) 2.4% (CA)	34.1%
5205.48.00 ²⁸⁴	Exceeding 120 nm per single yarn.....	12%	Free (IL) 2.4% (CA)	34.1%"

52-4. The article description of subheading 5209.42.00 is modified by deleting the expression "Blue denim" and inserting the expression "Denim" in lieu thereof.

52-5. The article description of subheading 5211.42.00 is modified by deleting the expression "Blue denim" and inserting the expression "Denim" in lieu thereof.

CHAPTER 54

54-1. Subheadings 5407.60 and 5407.60.05 through 5407.60.20 are superseded by the following:

	[Woven fabrics of synthetic filament yarn...:]			
	"Other woven fabrics, containing 85 percent or more by weight of polyester filaments:			
5407.61	Containing 85 percent or more by weight of non-textured polyester filaments:			
5407.61.05 ²⁸⁵	Dyed, measuring less than 77 cm in width or less than 77 cm between selvages, the thread count of which per cm (treating multiple (folded) or cabled yarns as single threads) is over 69 but not over 142 in the warp and over 31 but not over 71 in the filling.....	24.3€/kg + 22.5%	Free (IL) 4.8€/kg + 4.5% (CA)	24.3€/kg + 81%

- 279 ex 5205.25.00
- 280 ex 5205.25.00
- 281 ex 5205.25.00
- 282 ex 5205.45.00
- 283 ex 5205.45.00
- 284 ex 5205.45.00
- 285 ex 5407.60.05

56-1.²⁹⁴ Heading 5603.00 and subheadings 5603.00.10 through 5603.00.90 are superseded by the following:

"5603	Nonwovens, whether or not impregnated, coated, covered or laminated:			
	Of man-made filaments:			
5603.11.00 ²⁹⁵	Weighing not more than 25 g/m ²	12.5%	Free (B,IL) 2.5% (CA)	74%
5603.12.00 ²⁹⁶	Weighing more than 25 g/m ² but not more than 70 g/m ²	12.5%	Free (B,IL) 2.5% (CA)	74%
5603.13.00 ²⁹⁷	Weighing more than 70 g/m ² but not more than 150 g/m ²	12.5%	Free (B,IL) 2.5% (CA)	74%
5603.14	Weighing more than 150 g/m ² :			
5603.14.30 ²⁹⁸	Laminated fabrics.....	16%	Free (IL) 3.2% (CA)	83.5%
5603.14.90 ²⁹⁹	Other.....	12.5%	Free (B,IL) 2.5% (CA)	74%
	Other:			
5603.91.00 ³⁰⁰	Weighing not more than 25 g/m ²	12.5%	Free (B,IL) 2.5% (CA)	74%
5603.92.00 ³⁰¹	Weighing more than 25 g/m ² but not more than 70 g/m ²	12.5%	Free (B,IL) 2.5% (CA)	74%
5603.93.00 ³⁰²	Weighing more than 70 g/m ² but not more than 150 g/m ²	12.5%	Free (B,IL) 2.5% (CA)	74%
5603.94	Weighing more than 150 g/m ² :			
5603.94.10 ³⁰³	Floor covering underlays.....	3.4%	Free (B,IL) 0.6% (CA)	40%
	Other:			
5603.94.30 ³⁰⁴	Laminated fabrics.....	16%	Free (IL) 3.2% (CA)	83.5%
5603.94.90 ³⁰⁵	Other.....	12.5%	Free (B,IL) 2.5% (CA)	74% ^u

²⁹⁴ The Association of the Nonwoven Fabrics Industry (INDA) suggested in a written submission that the superior text to new subheading 5603.11.00 read "Of technologies which incorporate man-made filament:", rather than "Of man-made filament:" and that the superior text to new subheading 5603.91.00 read "Of technologies which incorporate other fibers:", rather than "Other:". The Commission's proposal comes directly from CCC's article 16 recommendation; further changes to these texts would require future CCC action.

- ²⁹⁵ ex 5603.00.90
- ²⁹⁶ ex 5603.00.90
- ²⁹⁷ ex 5603.00.90
- ²⁹⁸ ex 5603.00.30
- ²⁹⁹ ex 5603.00.90
- ³⁰⁰ ex 5603.00.90
- ³⁰¹ ex 5603.00.90
- ³⁰² ex 5603.00.90
- ³⁰³ ex 5603.00.10
- ³⁰⁴ ex 5603.00.30
- ³⁰⁵ ex 5603.00.90

CHAPTER 61

61-1.³⁰⁶ Subparagraph (a) of note 3 to chapter 61 is superseded by the following:

- "(a) The term "suit" means a set of garments composed of two or three pieces made up, in respect of their outer surface, in the same fabric and comprising:
- one suit coat or jacket the outer shell of which, exclusive of sleeves, consists of four or more panels, designed to cover the upper part of the body, possibly with a tailored waistcoat in addition whose front is made from the same fabric as the outer surface of the other components of the set and whose back is made from the same fabric as the lining of the suit coat or jacket; and
 - one garment designed to cover the lower part of the body and consisting of trousers, breeches or shorts (other than swimwear), a skirt or a divided skirt, having neither braces nor bibs.

All of the components of a "suit" must be of the same fabric construction, color and composition; they must also be of the same style and of corresponding or compatible size. However, these components may have piping (a strip of fabric sewn into the seam) in a different fabric.

If several separate components to cover the lower part of the body are presented together (for example, two pairs of trousers or trousers and shorts, or a skirt or divided skirt and trousers), the constituent lower part shall be one pair of trousers or, in the case of women's or girls' suits, the skirt or divided skirt, the other garments being considered separately.

The term "suit" includes the following sets of garments, whether or not they fulfill all the above conditions:

- morning dress, comprising a plain jacket (cutaway) with rounded tails hanging well down at the back and striped trousers;

³⁰⁶ In a written submission, Junior Gallery, Ltd., sought to modify the Commission's proposals concerning new notes 3 to chapters 61 and 62 with respect to "piping" on suits. The Commission's proposals in this regard come directly from the CCC's article 16 recommendation; Junior Gallery's proposed modifications of this language would require future CCC action.

- evening dress (tailcoat), generally made of black fabric, the jacket of which is relatively short at the front, does not close and has narrow skirts cut in at the hips and hanging down behind;
- dinner jacket suits, in which the jacket is similar in style to an ordinary jacket (though perhaps revealing more of the shirt front), but has shiny silk or imitation silk lapels."

~~[Subparagraph (b) proposed modifications deleted]~~

61-2. Notes 5 through 9 to chapter 61 are renumbered as 6 through 10, respectively, and the following new note 5 is inserted:

"5. Heading 6109 does not cover garments with a drawstring, ribbed waistband or other means of tightening at the bottom of the garment."

61-3. The article description of subheading 6116.10 is superseded by the following:

"Impregnated, coated or covered with plastics or rubber:"

CHAPTER 62

62-1.³⁰⁷ ~~Subparagraph (a)~~ of note 3 to chapter 62 is superseded by the following:

- "(a) The term "suit" means a set of garments composed of two or three pieces made up, in respect of their outer surface, in the same fabric and comprising:
- one suit coat or jacket the outer shell of which, exclusive of sleeves, consists of four or more panels, designed to cover the upper part of the body, possibly with a tailored waistcoat in addition whose front is made from the same fabric as the outer surface of the other components of the set and whose back is made from the same fabric as the lining of the suit coat or jacket; and
 - one garment designed to cover the lower part of the body and consisting of trousers, breeches or shorts (other than swimwear), a skirt or a divided skirt, having neither braces nor bibs.

All of the components of a "suit" must be of the same fabric construction, color and composition; they must also be of the same style and of corresponding or compatible size. However, these components may have piping (a strip of fabric sewn into the seam) in a different fabric.

If several separate components to cover the lower part of the body are presented together (for example, two pairs of trousers or trousers and shorts, or a skirt or divided skirt and trousers), the constituent lower part shall be one pair of trousers or, in the case of women's or girls' suits, the skirt or divided skirt, the other garments being considered separately.

The term "suit" includes the following sets of garments, whether or not they fulfill all the above conditions:

- morning dress, comprising a plain jacket (cutaway) with rounded tails hanging well down at the back and striped trousers;

³⁰⁷ In a written submission, Junior Gallery, Ltd., sought to modify the Commission's proposals concerning new notes 3 to chapters 61 and 62 with respect to "piping" on suits. The Commission's proposals in this regard come directly from the CCC's article 16 recommendation; Junior Gallery's proposed modifications of this language would require future CCC action.

- evening dress (tailcoat), generally made of black fabric, the jacket of which is relatively short at the front, does not close and has narrow skirts cut in at the hips and hanging down behind;
- dinner jacket suits, in which the jacket is similar in style to an ordinary jacket (though perhaps revealing more of the shirt front), but has shiny silk or imitation silk lapels."

~~Subparagraph (b) proposed modifications deleted~~

CHAPTER 63

63-1. Subheading 6305.31.00 is superseded by the following:

	[Sacks and bags, of a kind used for the...:]			
	[Of man-made textile materials:]			
"6305.32.00 ³⁰⁸	Flexible intermediate bulk containers....	9.5%	Free (IL) 1.8% (CA)	103%
6305.33.00 ³⁰⁹	Other, of polyethylene or polypropylene strip or the like.....	9.5%	Free (IL) 1.8% (CA)	103%"

³⁰⁸ ex 6305.31.00, 6305.39.00
³⁰⁹ ex 6305.31.00

CHAPTER 64

64-1. Subparagraph (a) of note 1 to chapter 64 is superseded by the following:

"(a) Disposable foot or shoe coverings of flimsy material (for example, paper, sheeting of plastics) without applied soles. These products are classified according to their constituent material;"

64-2. Subparagraphs (b) through (e) of note 1 to chapter 64 are redesignated as (c) through (f), respectively, and the following new subparagraph (b) is inserted:

"(b) Footwear of textile material, without an outer sole glued, sewn or otherwise affixed or applied to the upper (section XI);"

64-3. Note 2 to chapter 64 is superseded by the following:

"2. For the purposes of heading 6406, the term "parts" does not include pegs, protectors, eyelets, hooks, buckles, ornaments, braid, laces, pompons or other trimmings (which are to be classified in their appropriate headings) or buttons or other goods of heading 9606."

64-4. Note 3 to chapter 64 is superseded by the following:

"3. For the purposes of this chapter:

(a) The terms "rubber" and "plastics" include woven fabrics or other textile products with an external layer of rubber or plastics being visible to the naked eye; for the purpose of this provision, no account should be taken of any resulting change of color; and

(b) The term "leather" refers to the goods of headings 4104 to 4109."

64-4a. Subheading note 1 to chapter 64 is modified by deleting the expressions "6402.11" and "6403.11" and substituting the expressions "6402.12" and "6403.12", respectively, in lieu thereof.

64-5. Subparagraph (b) of subheading note 1 to chapter 64 is modified by inserting the expression "snowboard boots," after the expression "cross-country ski footwear,".

64-5a. The article description of subheading 6401.92.30 is superseded by the following:

"Ski boots and snowboard boots"

64-6.6³¹⁰ Subheading 6402.11.00 is superseded by the following:

[Other footwear with outer soles and uppers...]			
[Sports footwear:]			
#6402.12.00	Ski boots, cross-country ski footwear and snowboard boots	6%	Free (IL) 1.2% (CA)
311			
312			

64-7.³¹³ Subheadings 6403.11, 6403.11.30 and 6403.11.60 are superseded by the following:

[Footwear with outer soles of rubber,...]			
[Sports footwear:]			
#6403.12	Ski boots, cross-country ski footwear and snowboard boots		
314			
315			
6403.12.30 ³¹⁶	Welt footwear	Free	20%
6403.12.60 ³¹⁷	Other	10%	Free (IL) 2% (CA)

³¹⁰ In written submissions, Customs and the American Ski Federation pointed out discrepancies in the proposed duty rates to be applied to snowboard boots, as presented in the Commission's May 14 and August 1993 documents. After consultation with Customs, the Commission revised its proposals to reflect current Customs practice.

³¹¹ ex 6401.99.60, 6402.91.50

³¹² ex 6402.11.00

³¹³ In written submissions, Customs and the American Ski Federation pointed out discrepancies in the proposed duty rates to be applied to snowboard boots, as presented in the Commission's May 14 and August 1993 documents. After consultation with Customs, the Commission revised its proposals to reflect current Customs practice.

³¹⁴ [Deleted]

³¹⁵ [Deleted]

³¹⁶ ex 6403.11.30

³¹⁷ ex 6403.11.60

64-8.³¹⁸ [~~Proposed modifications deleted~~]

319

320

CHAPTER 68

68-1. Subheading 6810.20.00 is deleted.

68-2. The article description of heading 6815 is modified by deleting the expression "including articles of peat)" and inserting the expression "including carbon fibers, articles of carbon fibers and articles of peat)" in lieu thereof.

CHAPTER 69

69-1. Subparagraphs (b) through (l) of note 2 to chapter 69 are redesignated as (c) through (m), respectively, and the following new subparagraph (b) is inserted:

"(b) Articles of heading 6804;"

69-2. The article description of subheading 6903.10.00 is superseded by the following:

"Containing by weight more than 50 percent of graphite or other carbon or of a mixture of these products"

69-3. The following new subheading 6909.12.00 is inserted in numerical order:

	[Ceramic wares for laboratory...:]		
	[Ceramic wares for laboratory...:]		
"6909.12.00 ³²¹	Articles having a hardness equivalent		
	to 9 or more on the Mohs scale.....	8%	Free (A,E,IL,J) 45%"
			1.6% (CA)

318 [Deleted]
319 [Deleted]
320 [Deleted]
321 ex 6909.19.50

CHAPTER 70

70-1. ~~[Proposed modifications deleted]~~

70-2. ~~[Proposed modifications deleted]~~

70-3. Subparagraph (c) of note 2 to chapter 70 is superseded by the following:

"(c) The expression "absorbent, reflecting or non-reflecting layer" means a microscopically thin coating of metal or of a chemical compound (for example, metal oxide) which absorbs, for example, infrared light; or which improves the reflecting qualities of the glass while still allowing it to retain a degree of transparency or translucency; or which prevents light from being reflected on the surface of the glass."

70-4. The article description of heading 7003 is modified by deleting the expression "absorbent or reflecting" and inserting the expression "absorbent, reflecting or non-reflecting" in lieu thereof.

70-5. ~~Subheading 7003.11.00 is renumbered as 7003.12.00 and~~ its article description is modified by deleting the expression "absorbent or reflecting" and inserting the expression "absorbent, reflecting or non-reflecting" in lieu thereof.

70-6. The article description of heading 7004 is modified by deleting the expression "absorbent or reflecting" and inserting the expression "absorbent, reflecting or non-reflecting" in lieu thereof.

70-7. ~~Subheading 7004.10 is renumbered as 7004.20 and~~ its article description is modified by deleting the expression "absorbent or reflecting" and inserting the expression "absorbent, reflecting or non-reflecting" in lieu thereof.

70-8. ~~Subheading 7004.10.10 is renumbered as 7004.20.10 and~~ its article description is modified by deleting the expression "absorbent or reflecting" and inserting the expression "absorbent, reflecting or non-reflecting" in lieu thereof.

70-8a. ~~Subheadings 7404.10.20 and 7404.10.50 are renumbered as 7404.20.20 and 7404.20.50, respectively.~~

70-9. The article description of heading 7005 is modified by deleting the expression "absorbent or reflecting" and inserting the expression "absorbent, reflecting or non-reflecting" in lieu thereof.

70-10. The article description of subheading 7005.10.00 is modified by deleting the expression "absorbent or reflecting" and inserting the expression "absorbent, reflecting or non-reflecting" in lieu thereof.

SECTION XV

XV-1. Notes 3 through 6 to section XV are renumbered as 5 through 8, respectively, and the following new notes 3 and 4 are inserted:

- "3. Throughout the nomenclature, the expression "base metals" means: iron and steel, copper, nickel, aluminum, lead, zinc, tin, tungsten (wolfram), molybdenum, tantalum, magnesium, cobalt, bismuth, cadmium, titanium, zirconium, antimony, manganese, beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium.
4. Throughout the nomenclature, the term "cermets" means products containing a microscopic heterogeneous combination of a metallic component and a ceramic component. The term "cermets" includes sintered metal carbides (metal carbides sintered with a metal)."

XV-2. ~~Present note 4 (renumbered as new note 5)~~ to section XV is modified by deleting the reference to "note 3" and inserting "note 5" in lieu thereof.

XV-3. Additional U.S. note 1 to section XV is deleted, and additional U.S. note 2 is renumbered as new additional U.S. note 1.

CHAPTER 72

72-1. Subparagraph (1) of note 1 to chapter 72 is superseded by the following:

"(1) Bars and rods, hot-rolled, in irregularly wound coils

Hot-rolled products in irregularly wound coils, which have a solid cross-section in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles or other convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). These products may have indentations, ribs, grooves or other deformations produced during the rolling process (reinforcing bars and rods)."

72-5. Heading 7208 and its subheadings are superseded by the following:

"7208	Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, hot-rolled, not clad, plated or coated:			
7208.10	In coils, not further worked than hot-rolled, with patterns in relief:			
7208.10.15 ³⁶³	Pickled.....	5.1%	Free (E,IL,J) 1% (CA)	0.4€/kg + 20%
	Other:			
7208.10.30 ³⁶⁴	Of a thickness of 4.75 mm or more.....	6%	Free (E,IL,J) 1.2% (CA)	20%
7208.10.60 ³⁶⁵	Of a thickness of less than 4.75 mm.....	4.9%	Free (E,IL,J) 0.9% (CA)	20%
	Other, in coils, not further worked than hot-rolled, pickled:			
7208.25	Of a thickness of 4.75 mm or more:			
7208.25.30 ³⁶⁶	Of high-strength steel.....	6%	Free (E,IL,J) 1.2% (CA)	20%
7208.25.60 ³⁶⁷	Other.....	5.1%	Free (E,IL,J) 1% (CA)	0.4€/kg + 20%
7208.26.00 ³⁶⁸	Of a thickness of 3 mm or more but less than 4.75 mm.....	5.1%	Free (E,IL,J) 1% (CA)	0.4€/kg + 20%
7208.27.00 ³⁶⁹	Of a thickness of less than 3 mm....	5.1%	Free (E,IL,J) 1% (CA)	0.4€/kg + 20%
	Other, in coils, not further worked than hot-rolled:			
7208.36.00 ³⁷⁰	Of a thickness exceeding 10 mm.....	6%	Free (E,IL,J) 1.2% (CA)	20%
7208.37.00 ³⁷¹	Of a thickness of 4.75 mm or more but not exceeding 10 mm.....	6%	Free (E,IL,J) 1.2% (CA)	20%
7208.38.00 ³⁷²	Of a thickness of 3 mm or more but less than 4.75 mm.....	4.9%	Free (E,IL,J) 0.9% (CA)	20%
7208.39.00 ³⁷³	Of a thickness of less than 3 mm....	4.9%	Free (E,IL,J) 0.9% (CA)	20%
7208.40	Not in coils, not further worked than hot-rolled, with patterns in relief:			
7208.40.30 ³⁷⁴	Of a thickness of 4.75 mm or more...	6%	Free (E,IL,J) 1% (CA)	20%
7208.40.60 ³⁷⁵	Of a thickness less than 4.75 mm....	4.9%	Free (E,IL,J) 0.9% (CA)	20%

³⁶³ ex 7208.11.00, 7208.12.00, 7208.13.10, 7208.14.10, 7208.21.10, 7208.22.10, 7208.23.10, 7208.24.10

³⁶⁴ ex 7208.11.00, 7208.12.00, 7208.21.50, 7208.22.50

³⁶⁵ ex 7208.13.50, 7208.14.50, 7208.23.50, 7208.24.50

³⁶⁶ ex 7208.11.00, 7208.12.00

³⁶⁷ ex 7208.21.10, 7208.22.10

³⁶⁸ ex 7208.13.10, 7208.23.10

³⁶⁹ ex 7208.14.10, 7208.24.10

³⁷⁰ ex 7208.11.00, 7208.21.50

³⁷¹ ex 7208.12.00, 7208.22.50

³⁷² ex 7208.13.50, 7208.23.50

³⁷³ ex 7208.14.50, 7208.24.50

³⁷⁴ ex 7208.32.00, 7208.33.10, 7208.33.50, 7208.42.00, 7208.43.00

³⁷⁵ ex 7208.34.10, 7208.34.50, 7208.35.10, 7208.35.50, 7208.44.00, 7208.45.00

	Other, not in coils, not further worked than hot-rolled:			
7208.51.00 ³⁷⁶	Of a thickness exceeding 10 mm.....	6%	Free (E,IL,J) 1.2% (CA)	20%
7208.52.00 ³⁷⁷	Of a thickness of 4.75 mm or more but not exceeding 10 mm.....	6%	Free (E,IL,J) 1% (CA)	20%
7208.53.00 ³⁷⁸	Of a thickness of 3 mm or more but less than 4.75 mm.....	4.9%	Free (E,IL,J) 0.9% (CA)	20%
7208.54.00 ³⁷⁹	Of a thickness of less than 3 mm....	4.9%	Free (E,IL,J) 0.9% (CA)	20%
7208.90.00 ³⁸⁰	Other.....	5%	Free (E,IL,J) 1% (CA)	20%

72-6. Heading 7209 and its subheadings are superseded by the following:

"7209	Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated: In coils, not further worked than cold-rolled (cold-reduced):			
7209.15.00 ³⁸¹	Of a thickness of 3 mm or more.....	5.1%	Free (E,IL,J) 1% (CA)	0.4¢/kg + 20%
7209.16.00 ³⁸²	Of a thickness exceeding 1 mm but less than 3 mm.....	5.1%	Free (E,IL,J) 1% (CA)	0.4¢/kg + 20%
7209.17.00 ³⁸³	Of a thickness of 0.5 mm or more but not exceeding 1 mm.....	5.1%	Free (E,IL,J) 1% (CA)	0.4¢/kg + 20%
7209.18	Of a thickness of less than 0.5 mm:			
7209.18.15 ³⁸⁴	Of high-strength steel.....	5.1%	Free (E,IL,J) 1% (CA)	0.4¢/kg + 20%
	Other:			
7209.18.25 ³⁸⁵	Of a thickness of less than 0.361 mm (black-plate).....	3.2%	Free (E,IL,J) 0.6% (CA)	20%
7209.18.60 ³⁸⁶	Other.....	5.1%	Free (E,IL,J) 1% (CA)	0.4¢/kg + 20%

³⁷⁶ ex 7208.31.00, 7208.32.00, 7208.41.00, 7208.42.00
³⁷⁷ ex 7208.31.00, 7208.33.10, 7208.33.50, ~~7208.41.00~~, 7208.43.00
³⁷⁸ ex 7208.31.00, 7208.34.10, 7208.34.50, ~~7208.41.00~~, 7208.44.00
³⁷⁹ ex 7208.35.10, 7208.35.50, 7208.45.00
³⁸⁰ no change
³⁸¹ ex 7209.11.00, 7209.21.00
³⁸² ex 7209.12.00, 7209.22.00
³⁸³ ex 7209.13.00, 7209.23.00
³⁸⁴ ex 7209.14.00
³⁸⁵ ex 7209.24.10
³⁸⁶ ex 7209.24.50

72-11. Heading 7213 and its subheadings are superseded by the following:

"7213	Bars and rods, hot-rolled, in irregularly wound coils, of iron or nonalloy steel:			
7213.10.00 ⁴¹⁵	Concrete reinforcing bars and rods.....	4.9%	Free (E,IL,J) 0.9% (CA)	20%
7213.20.00 ⁴¹⁶	Other, of free-cutting steel.....	1.9%	Free (E,IL,J) 0.3% (CA)	5.5%
7213.91	Other:			
	Of circular cross section measuring less than 14 mm in diameter:			
7213.91.30 ⁴¹⁷	Not tempered, not treated and not partly manufactured.....	1.9%	Free (E,IL,J) 0.3% (CA)	5.5%
7213.91.45 ⁴¹⁸	Other:			
	Containing by weight 0.6 percent or more of carbon.....	1.9%	Free (E,IL,J) 0.3% (CA)	5.5%
7213.91.60 ⁴¹⁹	Other.....	2.3%	Free (E,IL,J) 0.4% (CA)	6%
7213.99.00 ⁴²⁰	Other.....	1.9%	Free (E,IL,J) 0.3% (CA)	5.5%"

72-12. Subheadings 7214.30.00 through 7214.60.00 are superseded by the following:

"7214.30.00 ⁴²¹	[Other bars and rods of iron or...:]			
	Other, of free-cutting steel.....	4.7%	Free (E,IL,J) 0.9% (CA)	20%
7214.31.00 ⁴²²	Other:			
	Of rectangular (other than square) cross section.....	4.7%	Free (E,IL,J) 0.9% (CA)	20%
7214.39.00 ⁴²³	Other.....	4.7%	Free (E,IL,J) 0.9% (CA)	20%"

72-13. Subheadings 7215.20.00, 7215.30.00, and 7215.40.00 are superseded by the following:

"7215.50.00 ⁴²⁴	[Other bars and rods of iron or nonalloy...:]			
	Other, not further worked than cold-formed or cold-finished.....	7.5%	Free (E,IL,J) 1.5% (CA)	0.36/kg + 20%"

⁴¹⁵ no change

⁴¹⁶ no change; the article description for 6-digit subheading 7213.20 has been modified without changing its scope.

⁴¹⁷ ex 7213.31.30, 7213.41.30, 7213.50.00

⁴¹⁸ ex 7213.50.00

⁴¹⁹ ex 7213.31.60, 7213.41.60

⁴²⁰ ex 7213.39.00, 7213.49.00, and 7213.50.00

⁴²¹ no change; the Commission's May 14 document inadvertently omitted this revision of the article description of subheading 7214.30.00, which has been modified without a change in scope.

⁴²² ex 7214.40.00, 7214.50.00, 7214.60.00

⁴²³ ex 7214.40.00, 7214.50.00, 7214.60.00, ~~7216.50.00~~

⁴²⁴ ex 7215.20.00, 7215.30.00, 7215.40.00

72-20. Subheading 7226.10.00 is superseded by the following:

[Flat-rolled products of other alloy steel,....:]			
*Of silicon-electrical steel:			
7226.11	Grain-oriented:		
7226.11.10 ⁴⁶³	Of a width of 300 mm or more.....	5.8%	Free (E,IL,J) 28%
			1.1% (CA)
7226.11.90⁴⁶⁴	Of a width of less than 300 mm.....	7%	Free (E,IL,J) 33%
			1.4% (CA)
7226.19	Other:		
7226.19.10 ⁴⁶⁵	Of a width of 300 mm or more.....	5.8%	Free (E,IL,J) 28%
			1.1% (CA)
7226.19.90⁴⁶⁶	Of a width of less than 300 mm.....	7%	Free (E,IL,J) 33%"
			1.4% (CA)

72-21. The following new subheadings 7226.93.00 and 7226.94.00 are inserted in numerical order:

[Flat-rolled products of other alloy steel....:]			
[Other:]			
"7226.93.00 ⁴⁶⁷	Electrolytically plated or coated with zinc.....	6.3%	Free (E,IL,J) 33%
			1.2% (CA)
7226.94.00 ⁴⁶⁸	Otherwise plated or coated with zinc.....	6.3%	Free (E,IL,J) 33%"
			1.2% (CA)

CHAPTER 73

73-1. Subheadings 7304.20 through 7304.20.80 are superseded by the following:

[Tubes, pipes and hollow profiles....:]			
*Casing, tubing and drill pipe, of a kind used in drilling for oil or gas:			
7304.21	Drill pipe:		
7304.21.10 ⁴⁶⁹	Of iron or nonalloy steel.....	8%	Free (E,IL,J) 25%
			1.6% (CA)
7304.21.20 ⁴⁷⁰	Of alloy steel.....	7.5%	Free (E,IL,J) 35%
			1.5% (CA)
7304.29	Other:		
	Casing:		
	Of iron or nonalloy steel:		
7304.29.10 ⁴⁷¹	Threaded or coupled.....	6%	Free (E,IL,J) 20%
			1.2% (CA)
7304.29.20 ⁴⁷²	Other.....	0.5%	Free (E,IL,J) 1%
			0.1% (CA)

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- 463 ex 7226.10.10
 - 464 ex 7226.10.50
 - 465 ex 7226.10.10
 - 466 ex 7226.10.50
 - 467 ex 7226.99.00
 - 468 ex 7226.99.00
 - 469 ex 7304.20.70
 - 470 ex 7304.20.80
 - 471 ex 7304.20.10
 - 472 ex 7304.20.20

	Of alloy steel:			
7304.29.30 ⁴⁷³	Threaded or coupled.....	6.2%	Free (E,IL,J)	28%
			1.2% (CA)	
7304.29.40 ⁴⁷⁴	Other.....	3.3%	Free (E,IL,J)	8.5%
			0.6% (CA)	
	Tubing:			
7304.29.50 ⁴⁷⁵	Of iron or nonalloy steel.....	8%	Free (E,IL,J)	25%
			1.6% (CA)	
7304.29.60 ⁴⁷⁶	Of alloy steel.....	7.5%	Free (E,IL,J)	35%
			1.5% (CA)	

73-2. The article description of heading 7305 is modified by deleting the expression "internal and external" before the expression "circular cross sections".

73-3. Subheadings 7314.11 through 7314.50.00 are superseded by the following:

	[Cloth (including endless bands), grill....]			
	"Woven cloth:			
7314.12	Endless bands for machinery, of			
	stainless steel:			
7314.12.10 ⁴⁷⁷	With meshes not finer than 12			
	wires to the lineal centimeter in			
	warp or filling.....	4.8%	Free (A,B,E,IL,J)	35%
			0.9% (CA)	
7314.12.20 ⁴⁷⁸	With meshes finer than 12 but			
	not finer than 36 wires to the			
	lineal centimeter in warp or			
	filling.....	4.8%	Free (A,B,E,IL,J)	50%
			0.9% (CA)	
	With meshes finer than 36 wires to			
	the lineal centimeter in warp or			
	filling:			
	Fourdrinier wires, seamed or			
	not seamed, suitable for use			
	in papermaking machines:			
7314.12.30 ⁴⁷⁹	With 94 or more wires to			
	the lineal centimeter.....	Free		75%
7314.12.60 ⁴⁸⁰	Other.....	10%	Free (A,E,IL,J)	75%
			2% (CA)	
7314.12.90 ⁴⁸¹	Other.....	7.2%	Free (A,B,E,IL,J)	60%
			1.4% (CA)	
7314.13.00 ⁴⁸²	Other endless bands for machinery.....	4.9%	Free (A*,B,E,	60%
			IL,J)	
			0.8% (CA)	

⁴⁷³ ex 7304.20.30
⁴⁷⁴ ex 7304.20.40
⁴⁷⁵ ex 7304.20.50
⁴⁷⁶ ex 7304.20.60
⁴⁷⁷ ex 7314.11.10
⁴⁷⁸ ex 7314.11.20
⁴⁷⁹ ex 7314.11.30
⁴⁸⁰ ex 7314.11.60
⁴⁸¹ ex 7314.11.90
⁴⁸² ex 7314.19.00

7314.11.10 ⁴⁸³	Other woven cloth, of stainless steel: With meshes not finer than 12 wires to the lineal centimeter in warp or filling.....	4.0%	Free (A,B,E,IL,J) 0.0% (CA)	35%
7314.11.20 ⁴⁸⁴	With meshes finer than 12 but not finer than 36 wires to the lineal centimeter in warp or filling.....	4.0%	Free (A,B,E,IL,J) 0.0% (CA)	50%
7314.11.30 ⁴⁸⁵	With meshes finer than 36 wires to the lineal centimeter in warp or filling: Fourdrinier wires, seamed or not seamed, suitable for use in papermaking machines: With 94 or more wires to the lineal centimeter.....	Free		75%
7314.11.60 ⁴⁸⁶	Other.....	10%	Free (A,E,IL,J) 2% (CA)	75%
7314.11.90 ⁴⁸⁷	Other.....	7.2%	Free (A,B,E,IL,J) 1.4% (CA)	60%
7314.19.00 ⁴⁸⁸	Other.....	4.0%	Free (A ^a ,B,E,IL,J) 0.0% (CA)	60%
7314.20.00 ⁴⁸⁹	Grill, netting and fencing, welded at the intersection, of wire with a maximum cross- sectional dimension of 3 mm or more and having a mesh size of 100 cm ² or more.....	5.7%	Free (A,E,IL,J) 1.1% (CA)	45%
7314.31	Other grill, netting and fencing, welded at the intersection:			
7314.31.10 ⁴⁹⁰	Plated or coated with zinc: Wire fencing coated or plated with zinc, whether or not covered with plastics material.....	0.2€/kg	Free (CA,E,IL,J)	1.1€/kg
7314.31.50 ⁴⁹¹	Other.....	5.7%	Free (A,E,IL,J) 1.1% (CA)	45%
7314.39.00 ⁴⁹²	Other.....	5.7%	Free (A,E,IL,J) 1.1% (CA)	45%

483 ex 7314.11.10
484 ex 7314.11.20
485 ex 7314.11.30
486 ex 7314.11.60
487 ex 7314.11.90
488 ex 7314.19.00
489 no change
490 ex 7314.30.10
491 ex 7314.30.50
492 ex 7314.30.50

84-5. The following new note 8 to chapter 84 is inserted:

"8. For the purposes of heading 8470, the term "pocket-size" applies only to machines the dimensions of which do not exceed 170 mm x 100 mm x 45 mm."

84-6.⁵²⁵ Subheading note 1 to chapter 84 is renumbered as 2, the superior text is modified to read "Subheading Notes", and the following new subheading note 1 is inserted:

"1. For the purposes of subheading 8471.49, the term "systems" means automatic data processing machines whose units satisfy the conditions laid down in note 5(B) to chapter 84 and which comprise at least a central processing unit, one input unit (for example, a keyboard or a scanner), and one output unit (for example, a visual display unit or a printer)."

84-7. Subheadings 8406.11 (and the superior text thereto), 8406.11.10, 8406.11.90, 8406.19, 8406.19.10 and 8406.19.90 are superseded by the following:

	[Steam turbines and other vapor turbines...]			
"8406.10	Turbines for marine propulsion:			
8406.10.10 ⁵²⁶	Steam turbines.....	7.5%	Free (A, CA, E, IL, J)	20%
8406.10.90 ⁵²⁷	Other.....	4.5%	Free (A, CA, E, IL, J)	27.5%
	Other turbines:			
8406.81	Of an output exceeding 40 MW:			
8406.81.10 ⁵²⁸	Steam turbines.....	7.5%	Free (A, CA, E, IL, J)	20%
8406.81.90 ⁵²⁹	Other.....	4.5%	Free (A, CA, E, IL, J)	27.5%
8406.82	Of an output not exceeding 40 MW:			
8406.82.10 ⁵³⁰	Steam turbines.....	7.5%	Free (A, CA, E, IL, J)	20%
8406.82.90 ⁵³¹	Other.....	4.5%	Free (A, CA, E, IL, J)	27.5%

⁵²⁵ Hitachi America, Ltd., in a written submission, expressed its concern that under this proposal, the classification of an individual component (e.g., a keyboard) would vary depending upon whether it is imported separately or as part of a "system." The Commission recognizes that this and related proposals may create some additional administrative burden both for importers and for Customs, but these proposals come directly from the CCC's article 16 recommendation; further modifications would require future CCC action.

- ⁵²⁶ ex 8406.11.10
- ⁵²⁷ ex 8406.11.90
- ⁵²⁸ ex 8406.19.10
- ⁵²⁹ ex 8406.19.90
- ⁵³⁰ ex 8406.19.10
- ⁵³¹ ex 8406.19.90

8471.80	Other units of automatic data processing machines:			
8471.80.10 ⁵⁷⁰	Control or adapter units.....	Free		35%
	[Proposed modifications deleted]			
571				
572				
	Other:			
8471.80.40 ⁵⁷³	Units suitable for physical incorporation into automatic data processing machines.....	Free		35%
8471.80.90 ⁵⁷⁴	Other.....	3.7%	Free (A,CA,E,IL,J)	35%
8471.80.00 ⁵⁷⁵	Other.....	3.7%	Free (A,CA,E,IL,J)	35%

84-26. The following new subheading 8473.50.00 is inserted after subheading 8473.40.40:

	[Parts and accessories...:]			
"8473.50.00 ⁵⁷⁶	Parts and accessories equally suitable for use with machines of two or more of the headings 8469 to 8472.....	3.9%	Free (A,CA,E,IL,J)	35%"

84-27. Subheading 8475.20 is superseded by the following:

	[Machines for assembling electric...:]			
	Machines for manufacturing or hot working glass or glassware:			
"8475.21.00 ⁵⁷⁷	Machines for making optical fibers and preforms thereof.....	3.9%	Free (A,CA,E,IL,J)	35%
8475.29.00 ⁵⁷⁸	Other.....	3.9%	Free (A,CA,E,IL,J)	35%"

84-28. Subheadings 8476.11.00 (and the superior text thereto) and 8476.19.00 are superseded by the following:

	[Automatic goods-vending machines...:]			
	"Automatic beverage-vending machines:			
8476.21.00 ⁵⁷⁹	Incorporating heating or refrigerating devices.....	3.9%	Free (A,CA,E,IL,J)	35%
8476.29.00 ⁵⁸⁰	Other.....	3.9%	Free (A,CA,E,IL,J)	35%

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- 570 ex 8471.99.15
 - 571 [Deleted]
 - 572 [Deleted]
 - 573 ex 8471.99.60
 - 574 ex 8471.99.90
 - 575 ex 8471.99.90
 - 576 ex 8473.10.00-.40.40
 - 577 ex 8475.20.00
 - 578 ex 8475.20.00
 - 579 ex 8476.11.00
 - 580 ex 8476.19.00

8476.81.00 ⁵⁸¹	Other machines: Incorporating heating or refrigerating devices.....	3.8%	Free (A,CA,E, IL,J)	35%
8476.89.00 ⁵⁸²	Other.....	3.8%	Free (A,CA,E, IL,J)	35%

84-29. The following new subheadings are inserted in numerical order:

"8479.50.00 ⁵⁸³	[Machines and mechanical appliances...] Industrial robots, not elsewhere specified or included.....	3.7%	Free (A,B,CA,E, IL,J)	35%
8479.60.00 ⁵⁸⁴	Evaporative air coolers.....	4.2%	Free (A,CA,E, IL,J)	40%

84-30. The article description of heading 8483 is modified by deleting the expression "ball screws;" and inserting the expression "ball or roller screws;" in lieu thereof.

84-31. The article description of subheading 8483.40 is modified by deleting the expression "ball screws;" and inserting the expression "ball or roller screws;" in lieu thereof.

84-32. The article description of heading 8484 is modified by inserting the expression "; mechanical seals" after the expression "similar packings".

84-33. The following new subheading 8484.20.00 is inserted in numerical order:

"8484.20.00 ⁵⁸⁵	[Gaskets and similar joints of metal...] Mechanical seals.....	5.7%	Free (A,B,CA,E, IL,J)	45%
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CHAPTER 85⁵⁸⁶

85-1. The first sentence of the second paragraph of note 4 to chapter 85 is superseded by the following:

"The expression "printed circuits" does not cover circuits combined with elements other than those obtained during the printing process, nor does it cover individual, discrete resistors, capacitors or inductances."

85-2. The following new note 7 to chapter 85 is inserted:

"7. For the purposes of heading 8548, ~~sp~~spent primary cells, spent primary batteries and spent electric storage batteries~~;~~ are those which are neither usable as such because of breakage, cutting up, wear or other reasons, nor capable of being recharged."

⁵⁸¹ ex 8476.11.00

⁵⁸² ex 8476.19.00

⁵⁸³ ex 8479.89.9040

⁵⁸⁴ ex 8479.89.60

⁵⁸⁵ ex 8485.90.00 and various other provisions covering parts of machinery

⁵⁸⁶ The proposal in braces ("()") and numbered as 85-16 and 85-25 in the May 14 document were not approved by the HSC and were therefore deleted.

85-3. The following new subheading note 1 to chapter 85 is inserted:

"Subheading note

1. Subheadings 8519.92 and 8527.12 cover only cassette players with built-in amplifier, without built-in loudspeaker, capable of operating without an external source of electric power and the dimensions of which do not exceed 170 mm x 100 mm x 45 mm."

~~85-3a. The following new additional U.S. note 12 to chapter 85 is inserted:~~

~~*12. For the purposes of heading 8504, the term "static converters" includes power supplies for automatic data processing machines or units thereof."~~

85-4. Subheading 8502.30 is superseded by the following:

	[Electric generating sets...:]			
	*Other generating sets:			
8502.31.00 ⁵⁸⁷	Wind-powered.....	3%	Free (A,B,C,CA, E,IL,J)	35%
8502.39.00 ⁵⁸⁸	Other.....	3%	Free (A,B,C,CA, E,IL,J)	35%

85-4a. Subheading 8504.40.00 is superseded by the following:

	[Electrical transformers...:]			
*8504.40	 Static converters:			
8504.40.40²	 Power supplies suitable for physical incorporation into automatic data processing machines or units thereof.....	Free	Free (A*,B,C,CA, E,IL,J)	35%
8504.40.60²	 Other.....	3%	Free (A*,B,C,CA, E,IL,J)	35%

85-5. Heading 8506 and subheadings 8506.11.00 (and the superior text thereto) through 8506.90.00 are superseded by the following:

*8506	Primary cells and primary batteries; parts thereof:			
8506.10.00 ⁵⁸⁹	Manganese dioxide.....	5.3%	Free (A,E,IL,J) 1% (CA)	35%
8506.30	Mercuric oxide:			
8506.30.10 ⁵⁹⁰	Having an external volume not exceeding 300 cm ³	5.3%	Free (A,CA,E, IL,J)	35%
8506.30.10 ⁵⁹¹	Other.....	5.3%	Free (A,E,IL,J) 1% (CA)	35%
8506.40	Silver oxide:			
8506.40.10 ⁵⁹²	Having an external volume not exceeding 300 cm ³	5.3%	Free (A,CA,E, IL,J)	35%
8506.40.10 ⁵⁹³	Other.....	5.3%	Free (A,E,IL,J) 1% (CA)	35%
8506.50.00 ⁵⁹⁴	Lithium.....	5.3%	Free (A,E,IL,J) 1% (CA)	35%

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- 587 ex 8502.30.00
 - 588 ex 8502.30.00
 - 1 ex 8471.99.32
 - 2 ex 8471.99.34, 8504.40.00
 - 589 ex 8506.11.00, 8506.20.00
 - 590 ex 8506.12.00
 - 591 ex 8506.20.00
 - 592 ex 8506.13.00
 - 593 ex 8506.20.00
 - 594 ex 8506.19.00, 8506.20.00

8524.52	Of a width exceeding 4 mm but not exceeding 6.5 mm:			
8524.52.10 ⁶¹⁷	Video tape recordings.....	0.66€/lin. m	Free (A,E,IL,J) 0.1€/lin. m (CA)	3.3€/lin. m
8524.52.20 ⁶¹⁸	Other.....	9.7€/m ² of recording surface	Free (A,E,IL,J) 1.9€/m ² of recording surface (CA)	86.1€/m ² of recording surface
8524.53	Of a width exceeding 6.5 mm:			
8524.53.10 ⁶¹⁹	Video tape recordings.....	0.66€/lin. m	Free (A,E,IL,J) 0.1€/lin. m (CA)	3.3€/lin. m
8524.53.20 ⁶²⁰	Other.....	9.7€/m ² of recording surface	Free (A,E,IL,J) 1.9€/m ² of recording surface (CA)	86.1€/m ² of recording surface
8524.60.00 ⁶²¹	Cards incorporating a magnetic stripe.....	9.7€/m ² of recording surface	Free (A,E,IL,J) 1.9€/m ² of recording surface (CA)	86.1€/m ² of recording surface
8524.81.00 ⁶²²	Other: For reproducing phenomena other than sound or image.....	9.7€/m ² of recording surface	Free (A,E,IL,J) 1.9€/m ² of recording surface (CA)	86.1€/m ² of recording surface
8524.99	Other:			
8524.99.20 ⁶²³	Master records or metal matrices therefrom for use in the production of sound records for export; recordings on wire.....	Free		Free
8524.99.40 ⁶²⁴	Other.....	9.7€/m ² of recording surface	Free (A,E,IL,J) 1.9€/m ² of recording surface (CA)	86.1€/m ² of recording surface

85-20. The article description of heading 8525 is modified by deleting the expression "cameras:" and inserting the following in lieu thereof:

"cameras; still image video cameras or other video camera recorders:"

85-20a. Subheadings 8525.20.50¹ (and the superior text thereto) and 8525.20.60 are deleted and the following is inserted in lieu thereof:

	{Transmission apparatus for radiotelephony...}			
	{Transmission apparatus incorporating...}			
*8525.20.90	Other.....	6%	Free (A,B,C,CA, E,IL,J)	352 ¹¹

- 617 ex 8524.22.10
- 618 ex 8524.22.20
- 619 ex 8524.23.10
- 620 ex 8524.23.20
- 621 ex 8524.90.40
- 622 ex 8524.90.40
- 623 ex 8524.90.20
- 624 ex 8524.90.40

¹ Cordless handset telephones will be classified in new subheading 8517.11.00.

85-21. The following new subheading is inserted in numerical order:

[Transmission apparatus for radiotelephony...:]

625 *8525.40.00	626	Still image video cameras and other video camera recorders	4.2%	Free (A, CA, E, IL, J)	35%
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85-22. Subheadings 8527.11 (and the superior text thereto) and 8527.11.11 through 8527.11.50 are superseded by the following:

[Reception apparatus...:]					
[Radiobroadcast receivers capable of...:]					
*8527.12.00	627	Pocket-size radio cassette players.....	3.7%	Free (A, CA, E, IL, J)	35%
8527.13		Other apparatus combined with sound recording or reproducing apparatus:			
8527.13.11	628	Combinations incorporating tape players which are incapable of recording.....	3.7%	Free (A, CA, E, IL, J)	35%
Other:					
8527.13.20	629	Radio-tape recorder combinations.....	4.8%	Free (CA, E, IL, J)	35%
8527.13.40	630	Radio-phonograph combinations..	4.4%	Free (CA, E, IL, J)	35%
8527.13.60	631	Other.....	3.7%	Free (A*, CA, E, IL, J)	35%*

85-23. The article description of heading 8528 is superseded by the following:

"Reception apparatus for television, whether or not incorporating radiobroadcast receivers or sound or video recording or reproducing apparatus; video monitors and video projectors:"

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- 625 [Deleted]
 - 626 8525.30.00
 - 627 ex 8527.11.11
 - 628 ex 8527.11.11
 - 629 ex 8527.11.20
 - 630 ex 8527.11.40
 - 631 ex 8527.11.60

85-24.⁶³² Subheadings 8528.10, 8528.10.30, 8528.10.60 and 8528.20.00 are superseded by the following:

	[Reception apparatus for television...]		
	"Reception apparatus for television, whether or not incorporating radiobroadcast receivers or sound or video recording or reproducing apparatus:		
633	[Proposed modifications deleted]		
	Color:		
8528.12.40 ⁶³⁴	Incorporating video recording or reproducing apparatus.....	3.9%	Free (A,E,IL,J) 25% D.7% (CA)
8528.12.80 ⁶³⁵	Other.....	5%	Free (B,E,IL,J) 35% 1% (CA)
8528.13.00 ⁶³⁶	Black and white or other monochrome.....	5%	Free (B,E,IL,J) 35% 1% (CA)
	Video monitors:		
8528.21.00 ⁶³⁷	Color.....	5%	Free (B,E,IL,J) 35% 1% (CA)
8528.22.00 ⁶³⁸	Black and white or other monochrome.....	5%	Free (B,E,IL,J) 35% 1% (CA)
8528.30.00 ⁶³⁹	Video projectors.....	5%	Free (B,E,IL,J) 35% 1% (CA)

85-25. The article description of heading 8537 is superseded by the following:

"Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of chapter 90, and numerical control apparatus, other than switching apparatus of heading 8517:"

85-26. The following new subheading 8539.32.00 is inserted in numerical order:

	[Electrical filament or discharge lamps...:]		
	[Discharge lamps, other than...:]		
"8539.32.00 ⁶⁴⁰	Mercury or sodium vapor lamps; metal halide lamps.....	3.7%	Free (A,E,IL,J) 20% 0.7% (CA)

⁶³² The Commission's proposals with respect to subheadings 8528.21, 8528.22, and 8528.30 had not been completed in the May 14 document, pending further information; these proposals are now complete.

- ⁶³³ [Deleted]
- ⁶³⁴ ex 8528.10.30
- ⁶³⁵ ex 8528.10.60
- ⁶³⁶ ex 8528.20.00
- ⁶³⁷ ex 8528.10.60
- ⁶³⁸ ex 8528.20.00
- ⁶³⁹ ex 8528.10.60, 8528.20.00
- ⁶⁴⁰ ex 8539.39.00

85-27. Subheadings 8539.40, 8539.40.40 and 8539.40.80 are superseded by the following:

	[Electrical filament or discharge lamps...:]			
8539.41.00 ⁶⁴¹	"Ultraviolet or infrared lamps; arc lamps: Arc lamps.....	3.9%	Free (A, CA, E, IL, J)	35%
8539.49.00 ⁶⁴²	Other.....	3.7%	Free (A, CA, E, IL, J)	35%"

85-28. Subheadings 8540.30.00 through 8540.49.00 are superseded by the following:

	[Thermionic, cold cathode or photocathode...:]			
	Proposed modifications deleted			
643				
644				
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"8540.40.00 ⁶⁴⁹	Data/graphic display tubes, color, with a phosphor dot screen pitch smaller than 0.4 mm.....	6%	Free (B, CA, E, IL, J)	35%
8540.50.00 ⁶⁵⁰	Data/graphic display tubes, black and white or other monochrome.....	6%	Free (B, CA, E, IL, J)	35%
8540.60.00 ⁶⁵¹	Other cathode-ray tubes.....	6%	Free (B, CA, E, IL, J)	35%

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- 641 ex 8539.40.40
 - 642 ex 8539.40.80
 - 643 [Deleted]
 - 644 [Deleted]
 - 645 [Deleted]
 - 646 [Deleted]
 - 647 [Deleted]
 - 648 [Deleted]
 - 649 ex 8540.30.00
 - 650 ex 8540.30.00
 - 651 ex 8540.30.00

		Microwave tubes (for example, magnetrons, klystrons, traveling wave tubes, carcinotrons), excluding grid-controlled tubes:		
8540.71		Magnetrons:		
8540.71.20	652	Modified for use as parts of microwave ovens.....	Free	35%
8540.71.40	653	Other.....	4.2%	Free (CA,E,IL,J) 35%
8540.72.00	654	Klystrons.....	4.2%	Free (CA,E,IL,J) 35%
8540.79.00	655	Other.....	4.2%	Free (CA,E,IL,J) 35%"

85-29. Subheadings 8542.11.00 (and the superior text thereto) through 8542.90.00 are superseded by the following:

		[Electronic integrated circuits...:]		
8542.12.00	656	*Monolithic digital integrated circuits: Cards incorporating electronic integrated circuits ("smart" cards).....	Free	35%
8542.13.00	657	Metal oxide semiconductors (MOS technology).....	Free	35%
8542.14.00	658	Circuits obtained by bipolar technology.....	Free	35%
8542.19.00	659	Other, including circuits obtained by a combination of bipolar and MOS technologies (SIMOS technology).....	Free	35%
8542.30.00	660	Other monolithic integrated circuits.....	Free	35%
8542.40.00	661	Hybrid integrated circuits.....	Free	35%
8542.50.00	662	Electronic microassemblies.....	3.9%	Free (A*,B,CA,E,IL,J) 35%
8542.90.00	663	Parts.....	Free	35%"

85-30. Subheading 8543.10.00 is superseded by the following:

		[Electrical machines and apparatus...:]		
8543.11.00	664	*Particle accelerators: Ion implanters for doping semiconductor materials.....	3.9%	Free (A,CA,E,IL,J) 35%
8543.19.00	665	Other.....	3.9%	Free (A,CA,E,IL,J) 35%"

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- 652 ex 8540.41.20
 - 653 ex 8540.41.40
 - 654 ex 8540.42.00
 - 655 ex 8540.49.00
 - 656 ex 8542.11.00
 - 657 ex 8542.11.00
 - 658 ex 8542.11.00
 - 659 ex 8542.11.00
 - 660 ex 8542.19.00
 - 661 ex 8542.20.00
 - 662 ex 8542.80.00
 - 663 no change
 - 664 ex 8543.10.00
 - 665 ex 8543.10.00

85-31. The following new subheading 8543.40.00 is inserted in numerical order:

"8543.40.00 ⁶⁶⁶	[Electrical machines and apparatus...:] Electric fence energizers.....	3.8%	Free (A*,CA,E, IL,J)	35%"
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85-32. Subheadings 8543.80 through 8543.80.90 are superseded by the following:

8543.81.00 ⁶⁶⁷	[Electrical machines and apparatus...:] "Other machines and apparatus: Proximity cards and tags.....	3.9%	Free (A*,CA,E, IL,J)	35%
8543.89 8543.89.40 ⁶⁶⁸	Other: Electric synchros and trans- ducers; flight data recorders; defrosters and demisters with electric resistors for aircraft.....	3.9%	Free (A,C,CA,E, IL,J)	35%
8543.89.60 ⁶⁶⁹	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks.....	3.9%	Free (A,B,CA,E, IL,J)	35%
8543.89.70 ⁶⁷⁰	Electric luminescent lamps.....	2%	Free (A,CA,E, IL,J)	20%
8543.89.95 ⁶⁷¹	Other.....	3.9%	Free (A*,B,CA,E, IL,J)	35%"

85-33. [Proposed modifications deleted]

85-34. [Proposed modifications deleted]

666 ex 8543.80.90
 667 ex 8543.80.90
 668 ex 8543.80.40
 669 ex 8543.80.60
 670 ex 8543.80.70
 671 ex 8543.80.90

85-35.⁶⁷² Heading 8548.00.00 is superseded by the following:

"8548	Waste and scrap of primary cells, primary batteries and electric storage batteries; spent primary cells, spent primary batteries and spent electric storage batteries; electrical parts of machinery or apparatus, not specified or included elsewhere in this chapter:			
8548.10	Waste and scrap of primary cells, primary batteries and electric storage batteries; spent primary cells, spent primary batteries and spent electric storage batteries:			
8548.10.10 ⁶⁷³	For recovery of lead	2.5% on the value of the lead content	Free (A, CA, E, IL, J)	11.5%
8548.10.20 ⁶⁷⁴	Other	Free	Free (A, B, E, IL, J)	Free
8548.90.00 ⁶⁷⁵	Other	3.9%	0.7% (CA)	35%

SECTION XVII

XVII-1. Note 4 to section XVII is superseded by the following:

- "4. For the purposes of this section:
- (a) Vehicles specially constructed to travel on both road and rail are classified under the appropriate heading of chapter 87;
 - (b) Amphibious motor vehicles are classified under the appropriate heading of chapter 87;
 - (c) Aircraft specially constructed so that they can also be used as road vehicles are classified under the appropriate heading of chapter 88."

CHAPTER 87

87-1. Note 2 to chapter 87 is modified by adding the following new second paragraph:

"Machines and working tools designed for fitting to tractors of heading 8701 as interchangeable equipment remain classified in their respective headings even if presented with the tractor, and whether or not mounted on it."

⁶⁷² According AT&T's submission, the Commission's May 14 document proposal for spent batteries did not reflect existing Customs practice. After consultation with Customs, the Commission revised this proposal.

⁶⁷³ ex 7802.00.00

⁶⁷⁴ ex 3823.90, various waste and scrap provisions in ch. 72-81

⁶⁷⁵ ex 8548.00.00

CHAPTER 88

88-1. The following new subheading note to chapter 88 is inserted:

"Subheading Note

1. For the purposes of subheadings 8802.11 to 8802.40, the expression "unladen weight" means the weight of the machine in normal flying order, excluding the weight of crew and of fuel and equipment other than permanently fitted items of equipment."

88-2. The article description of heading 8802 is superseded by the following:

"Other aircraft (for example, helicopters, airplanes); spacecraft (including satellites) and suborbital and spacecraft launch vehicles:"

88-3. ~~Subheading 8802.50 is renumbered as 8802.60 and its article description is superseded by the following:~~

~~"Spacecraft (including satellites) and suborbital and spacecraft launch vehicles:"~~

~~88-3a. Subheadings 8802.50.30 and 8802.50.90 are renumbered as 8802.60.30 and 8802.60.90, respectively.~~

88-4. The article description of heading 8804.00.00 is superseded by the following:

"Parachutes (including dirigible parachutes and paragliders) and rotachutes; parts thereof and accessories thereto"

CHAPTER 90

90-1. ~~Subparagraph (h) of note 1 to chapter 90 is modified by inserting the expression "still image video cameras and other video camera recorders (heading 8525);" after the expression "(heading 8522);"~~

90-2. ~~[Proposed modifications deleted]~~

90-3. [~~Proposed modifications deleted~~]

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90-4. Subheading 9007.21 and the superior text thereto are superseded by the following:

"9007.20 Projectors:
 For film of less than 16 mm:"

90-5. Subheadings 9007.21.40 and 9007.21.80 are renumbered as 9007.20.20 and 9007.20.40, respectively.

90-6. The numerical subheading code number 9007.29 is deleted; the article description "Other:" is retained.

90-7. Subheadings 9007.29.40 and 9007.29.80 are renumbered as 9007.20.60 and 9007.20.80, respectively.

90-8. The article description of heading 9010 is modified by deleting the expression "apparatus for the projection" and inserting the expression "apparatus for the projection or drawing" in lieu thereof.

676 [Deleted]
677 [Deleted]
678 [Deleted]
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680 [Deleted]
681 [Deleted]

CONFORMING CHANGES TO THE GENERAL NOTES AND TO CHAPTERS 98 AND 99

General notes

GN-1. Subparagraph (c)(vii)(R)(9)(cc) to general note 3 is modified by deleting the expression "4412.11.50, 4412.12.50, 4412.19.50, 4412.29.50, or 4412.99.90" and inserting the expression "4412.11.55, 4412.19.50, 4412.22.50, or 4412.29.55" in lieu thereof.

GN-2. Subparagraph (c)(vii)(R)(13)(ii) to general note 3 is modified by deleting the expression "subheading 7019.20" and inserting the expression "subheadings 7019.40 through 7019.59" in lieu thereof.

GN-3. Subparagraph (c)(vii)(R)(16)(dd) to general note 3 is modified by deleting the expression "subheading 8471.92" and inserting the expression "subheading 8471.49.20 through 8471.49.40 or subheading 8471.60" in lieu thereof.

GN-4. Subparagraph (c)(vii)(R)(16)(ee) to general note 3 is modified by deleting the expression "subheadings 8471.20 through 8471.91" and inserting the expression "subheading 8471.30, 8471.41, 8471.49.10 or 8471.50" in lieu thereof.

GN-5. Subparagraph (c)(vii)(R)(20)(dd) general note 3 is modified by deleting the expression "subheading 9614.10" and inserting the expression "subheading 9614.90.10" in lieu thereof.

Chapter 98

98-1. Subparagraph (d) to U.S. note 3 to subchapter II of chapter 98 is modified by deleting the expression "enumerated in additional U.S. note 1 to section XV" and replacing it with the expression "enumerated in note 3 to section XV" in lieu thereof.

98-2. Subparagraph (a)(vii) to U.S. note 6 to subchapter X of chapter 98 is modified by deleting the expression "subheading 7508.00.50" and inserting the expression "subheadings 7508.10 and 7508.90.50" in lieu thereof.

98-3. Subparagraph (a)(viii) to U.S. note 6 to subchapter X of chapter 98 is modified by deleting the expression "subheading 7616.90" and inserting the expression "subheadings 7616.91 and 7616.99" in lieu thereof.

98-4. Subparagraph (a)(x) to U.S. note 6 to subchapter X of chapter 98 is modified by deleting the expression "subheading 7907.90.60" and inserting the expression "subheadings 7907.00.90" in lieu thereof.

98-5. Subparagraph (a)(xiv) to U.S. note 6 to subchapter X of chapter 98 is modified by deleting the expression "and 8548.00;" and inserting the expression "and 8548.90;" in lieu thereof.

98-6. Subparagraph (f) to U.S. note 2 to subchapter XVII of chapter 98 is modified by deleting the expression "7018.90 and 7019.20" and inserting the expression "7018.90, 7019.40, 7019.51, 7019.52 and 7019.59" in lieu thereof.

98-7. Subparagraph (o) to U.S. note 2 to subchapter XVII of chapter 98 is modified by deleting the expression "(except subheading 7907.10)" and inserting the expression "(except gutters, roof capping, skylight frames and other fabricated building components, of zinc)" in lieu thereof.

98-8. Subparagraph (u) to U.S. note 2 to subchapter XVII of chapter 98 is modified by deleting the expression "8519.91" and inserting the expression "8519.92" in lieu thereof.

98-9. Subparagraph (u) to U.S. note 2 to subchapter XVII of chapter 98 is modified by deleting the expression "subheadings 8532.90, 8539.90, 8543.10, 8543.20, 8543.30, 8543.80.60, 8543.80.90, 8543.90, 8544.70, 8546.90, 8547.20 and 8548.00)" and inserting the expression "subheadings 8532.90 and 8539.90, subheadings 8543.11 through 8543.81, subheadings 8543.89.60, 8543.89.95, 8543.90, ~~8544.70~~ 8546.90, 8547.20 and 8548.90)" in lieu thereof.

98-10. The article description of immediately preceding subheading 9817.00.80 is modified by deleting the expression "section VI or in chapter 26" and inserting the expression "section VI, chapter 26 or subheading 8548.10" in lieu thereof.

Chapter 99

99-1. ~~Proposed modifications deleted~~

99-2. The article description of subheading 9902.08.07 is modified by deleting the expression "subheading 0807.10.20" and inserting the expression "subheading 0807.19.10" in lieu thereof.

99-3. The article description of subheading 9902.29.55 is modified by deleting the expression "subheading 3823.90.27" and inserting the expression "subheading 3824.90.27" in lieu thereof.

99-4. The article description of heading 9902.29.62 is modified by deleting the expression "subheading 2932.90.50" and inserting the expression "subheading 2932.99.50" in lieu thereof.

99-5. The article description of heading 9902.29.98 is modified by deleting the expression "subheading 2932.90.41" and inserting the expression "subheading 2932.99.41" in lieu thereof.

99-6. The article description of heading 9902.30.16 is modified by deleting the expression "subheading 2914.30.00" and inserting the expression "subheading 2914.39.00" in lieu thereof.

- 99-7. The article description of heading 9902.30.78 is modified by deleting the expression "subheading 2932.90.10" and inserting the expression "subheading 2932.99.10" in lieu thereof.
- 99-8. The article description of heading 9902.30.79 is modified by deleting the expression "subheading 2932.90.45" and inserting the expression "subheading 2932.99.41" in lieu thereof.
- 99-9. The article description of heading 9902.30.83 is modified by deleting the expression "subheading 2932.90.41" and inserting the expression "subheading 2932.99.41" in lieu thereof.
- 99-10. The article description of heading 9902.38.23 is modified by deleting the expression "subheading 3823.90.29" and inserting the expression "subheading 3824.90.27" in lieu thereof.
- 99-11. The article description of subheading 9902.38.25 is modified by deleting the expression "subheading 3823.90.27" and inserting the expression "subheading 3824.90.27" in lieu thereof.
- 99-12. The article description of heading 9902.39.27 is modified by deleting the expression "3929.90.90, 4823.30.00" and inserting the expression "3929.90.90, 4823.90.30" in lieu thereof.
- 99-13. The article description of heading 9902.48.23 is modified by deleting the expression "3929.90.90, 4823.30.00" and inserting the expression "3929.90.90, 4823.90.30" in lieu thereof.
- 99-14. The article description of heading 9902.53.03 is modified by deleting the expression "subheading 5603.00.90" and inserting the expression "subheading 5603.11.00, 5603.12.00, 5603.13.00, 5603.14.90, 5603.91.00, 5603.92.00, 5603.93.00 or 5603.94.90" in lieu thereof.
- 99-14a. The article description of heading 9902.56.03 is modified by deleting the expression "subheading 5603.00.90" and inserting the expression "subheading 5603.11.00, 5603.12.00, 5603.13.00, 5603.14.90, 5603.91.00, 5603.92.00, 5603.93.00 or 5603.94.90" in lieu thereof.
- 99-15. The article description of subheading 9902.70.19 is modified by deleting the expression "subheading 7019.10.10, 7019.10.20, or 7019.10.60" and inserting the expression "subheading 7019.19.10, 7019.19.20, or 7019.19.60" in lieu thereof.
- 99-16. The article description of subheading 9902.70.20 is modified by deleting the expression "subheading 7019.20.10, 7019.20.20, or 7019.20.50" and inserting the expression "subheading 7019.40, 7019.51, 7019.52, or 7019.59" in lieu thereof.
- 99-17. The article description of subheading 9902.76.30 is modified by deleting the expression "subheading 7616.90.00" and inserting the expression "subheading 7616.90.99" in lieu thereof.
- 99-18. The article description of subheading 9902.84.65 is modified by deleting the expression "subheading 8471.92.65" and inserting the expression "subheading 8471.49.40 or 8471.60.50" in lieu thereof.

- 99-19. The article description of subheading 9902.85.24 is modified by deleting the expression "subheading 8524.23.10" and inserting the expression "subheading 8524.53.10" in lieu thereof.
- ~~99-19a. The article description of subheading 9902.85.25 is modified by deleting the expression "subheading 8504.40.00" and inserting the expression "subheading 8504.40.90" in lieu thereof.~~
- ~~99-19b. The article description of subheading 9902.85.26 is modified by deleting the expression "subheading 8504.40.00" and inserting the expression "subheading 8504.40.90" in lieu thereof.~~
- 99-20. ~~[Proposed modifications deleted]~~
- 99-21. The article description of heading 9902.91.06 is modified by deleting the expression "battery or AC powered" and inserting the expression "electrically operated" in lieu thereof.
- 99-22. The article description of heading 9903.10.20 is modified by deleting the expression "subheading 1402.91.00" and inserting the expression "subheading 1402.90.10" in lieu thereof.
- 99-23. The article description of heading 9903.10.21 is modified by deleting the expression "subheading 1520.10.00" and inserting the expression "subheading 1520.00.00" in lieu thereof.
- 99-24. The article description of heading 9903.10.22 is modified by deleting the expression "subheading 1520.90.00" and inserting the expression "chapter 29" in lieu thereof.
- 99-25. The article description of subheading 9903.23.20 is modified by deleting the expression "subheading 2101.10.20" and inserting the expression "subheading 2101.11.00" in lieu thereof.
- 99-26. The article description of subheading 9903.41.15 is modified by deleting the expression "subheading 8471.20" and inserting the expression "subheading 8471.30 or 8471.41" in lieu thereof.
- 99-27. The article descriptions of subheading 9903.41.20 and 9903.41.25 are modified by deleting the expression "subheading 8471.91" and inserting the expression "subheading 8471.49.10 or 8471.50" in lieu thereof.
- 99-28. The article descriptions of subheadings 9903.41.40 and 9903.41.45 are modified by deleting the expression "subheading 8528.10.80" and inserting the expression "subheading 8528.12.80" in lieu thereof.
- 99-29. The article description of subheading 9904.10.24 is modified by deleting the expression "0405.00.80 or 2106.90.15" and inserting the expression "0405.20.00, 0405.90.00 or 2106.90.15" in lieu thereof.
- 99-30. The article description of heading 9904.50.20 is modified by deleting the expression "2101.10.40, 2101.20.40" and inserting the expression "2101.12.00, 2101.20.40" in lieu thereof.

99-31. The article description of heading 9904.50.40 is modified by deleting the expression "2101.10.40, 2101.20.40" and inserting the expression "2101.12.00, 2101.20.40" in lieu thereof.

99-32. The article description of subheading 9904.60.60 is modified by deleting the expression "2101.10.40, 2101.20.40" and inserting the expression "2101.12.00, 2101.20.40" in lieu thereof.

99-33. The article description of subheading 9905.00.00 is modified by deleting the numbers "4010.10", "7508.00", "7616.90", "8519.91", "8520.31", "8548.00", "9030.81", and "9030.89" from the listing of headings and subheadings and inserting the following numbers in numerical sequence therein:

"4010.11.00
4010.12.10
4010.12.20
4010.12.40
4010.13.00
4010.19.10
4010.19.20
4010.19.40
4010.19.90
4010.21.30
4010.21.60
4010.22.30
4010.22.60
4010.29.10
4010.29.20
7508.10
7508.90
7616.91
7616.99
8519.92
8519.93
8520.32
8520.33
8548.90
9030.82
9030.83
9030.89"

99-34. The article description of subheading 9905.00.20 is modified by deleting the expression "4412.19 or 4412.99" and inserting the expression "4412.19, 4412.92 or 4412.99" in lieu thereof.

99-34a. The article description of subheading 9905.00.30 is modified by deleting the expression "5407.60.20" and inserting the expression "5407.61.20" in lieu thereof.

99-35. The article description of subheading 9905.38.10 is modified by deleting the expression "subheading 3823.90" and inserting the expression "subheading 3824.90" in lieu thereof.

**APPENDIX C
CCC NOTIFICATION OF
NONACCEPTANCE OF CERTAIN
RECOMMENDED HS AMENDMENTS**



CUSTOMS CO-OPERATION COUNCIL
CONSEIL DE COOPERATION DOUANIÈRE

APPENDIX - C

**NOMENCLATURE AND CLASSIFICATION
DIRECTORATE**

FAX : 32 2 508 4239

94.N.89 - Gr/F1

Brussels, 31 January 1994.

Dear Sir/Madam,

The Secretariat has been notified, under Article 16 (2) of the HS Convention, of objections to the following HS amendments set out in the Council Recommendation of 6 July 1993 :

- Heading 27.10 and new subheading Note 4. (Saudi Arabia)
- Subheadings 2922.1, 2922.2 and 2922.4. (Canada)
- Subheading 3906.90. (Canada)
- Note 3 (b) to Chapter 61 and Note 3 (b) to Chapter 62. (EC and Member States)
- New subheadings 8528.11 and 8540.13. (EC and Member States)
- Notes 1 (c) and 1 (d) to Chapter 70; heading 85.44 and subheading 8544.70; Note 1 (h) to Chapter 90 (item 2); heading 90.01 and subheading 9001.10. (EC and Member States)

.../...

As at 15 January 1994, no Contracting Party had notified an objection to the other amendments in the Recommendation. Accordingly, all the recommended amendments will come into force on 1 January 1996 with the exception of the amendments mentioned above.

The Secretariat would, however, draw attention to the fact that some of the objections referred to above necessitate consequential editorial adjustments as indicated in the Annex to this letter. These adjustments will be incorporated into certified copies of the accepted amendments which will be forwarded to Governments of Contracting Parties to the HS Convention in due course.

Yours faithfully,



I. KUSAHARA
Director

CONSEQUENTIAL EDITORIAL ADJUSTMENTS

TO RECOMMENDED HS AMENDMENTS

Page 68.

1. Delete "Note 3" and substitute "Note 3 (a)".
2. Delete "3. - For ...61.04 :".

Page 69.

1. Delete "lapels." in the last line of Note 3 (a) and substitute "lapels."".
2. Delete Note 3 (b).

Page 70.

Delete the remaining paragraphs of Note 3 (b).

Page 71.

1. Delete "Note 3" and substitute "Note 3 (a)".
2. Delete "3. - For ...62.04 :".

Page 72.

1. Delete "lapels." in the last line of Note 3 (a) and substitute "lapels."".
2. Delete Note 3 (b).

Page 73.

Delete the remaining paragraphs of Note 3 (b).

Page 115.

Subheadings 8528.11, 8528.12 and 8528.13.

Delete and substitute :

"8528.12 -- Colour

8528.13 -- Black and white or other monochrome"

Page 118.

1. Delete "Subheadings 8540.1 to 8540.99" and substitute "Subheadings 8540.30 to 8540.99".
2. Delete subheadings 8540.1, 8540.12, 8540.13, 8540.14 and 8540.20.

Page 123.

Note 1 (h).

Delete "1.". (Item 2 to which there has been an objection must be deleted).

APPENDIX D
CONSEQUENTIAL EDITORIAL AND
TECHNICAL CORRECTIONS TO
CCC RECOMMENDATION

Annexe N au Doc. 38.760
Annex to

(CSH/13/avr. 94)
(HSC/13/Apr. 94)

ANNEXE N

AMENDEMENTS A APPORTER AUX TEXTES LEGAUX DU
SYSTEME HARMONISE A EFFECTUER PAR VOIE DE CORRIGENDUM

(Voir annexe H/24 ci-dessus)

ANNEX N

AMENDMENTS TO THE LEGAL TEXTS
OF THE HARMONIZED SYSTEM TO BE MADE BY CORRIGENDUM

(See Annex H/24 above)

AMENDMENTS TO THE
LEGAL TEXTS OF THE HARMONIZED SYSTEM

TO BE MADE BY CORRIGENDUM

CHAPTER 11.

Note 2 (A). New last sentence.

Delete and substitute :

"However, germ of cereals, whole, rolled, flaked or ground is always classified in heading No. 11.04".

CHAPTER 32.

Subheading 3214.10.

French text only.

CHAPTER 34.

Note 5. Exclusion (a).

Delete the reference to headings "38.23 or 34.02" and substitute "34.02 or 38.23" in lieu thereof.

CHAPTER 35.

French text only.

CHAPTER 44.

New Subheading Note. Second line of adopted text.

Delete "4407.23" and substitute "4407.24".

CHAPTER 52.

Subheading Note 1.

French text only.

CHAPTER 56.

Subheading 5603.1.

Delete "filament" and substitute "filaments".

CHAPTER 64.

Subheading Note 1. Introductory sentence.

Delete "6402.11" and 6403.11" and substitute "6402.12" and "6403.12", respectively.

CHAPTER 72.

Note 1 (m). First indent.

French text only.

Subheading 7226.1.

French text only.

CHAPTER 92.

Heading 92.06.

Delete "maraccas" and substitute "maracas".

x

x

x

APPENDIX E
CUSTOMS RULING CONCERNING
CLASSIFICATION OF
SNOWBOARD BOOTS



DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

WASHINGTON, D.C.

HQ 955260

NOV 3 1993

CLA-2 CO:R:C:M 955260

CATEGORY: Classification

TARIFF NO.: 6402.11.00; 6403.11.60; 6404.19.20;
6402.91.50Area Director of Customs
U.S. Customs Service
6 World Trade Center
New York, New York 10048RE: Boots, snowboard; Footwear, sports; ski boots
HRL's 089162, 951772, 951777, 951757, 952294

Dear Ms. Maguire:

In a series of Headquarters rulings we have held that snowboard boots are not considered "sports footwear" as that term is defined in Subheading Note 1 to Chapter 64, Harmonized Tariff Schedule of the United States (HTSUS). We have recently reconsidered this matter and are now of the opinion that snowboard boots are "sports footwear" for tariff purposes. Therefore, it is necessary to revoke any inconsistent rulings and to ensure that future importations are classified according to this ruling. The basis for our decision is set forth below.

FACTS:

DESCRIPTION OF MERCHANDISE

Although early versions of snowboard boots were made primarily of rubber, and had laces, there now appears to be three categories of snowboard boots (soft, hard, and hybrid). All have certain characteristics in common. The boots are constructed with a forward lean in the extended upper to place the user in the correct stance on the snowboard. The upper, reaching to about mid-calf, is higher in the back and lower in the front. The boots are stiff and relatively heavy. These attributes make snowboard boots uncomfortable for walking. Therefore, they are principally, if not exclusively, used for the sport of snowboarding.

Snowboard boots are usually made up of two separate boots, one inside the other. The inner boot, referred to as a sock liner, liner, or bladder, can be removed from the outer boot. The inner boot is thickly padded and usually has a form of closure independent from the outer boot. The outer boot is several sizes larger than the inner boot and generally would not provide padding or protection for the user's foot from the elements while using the snowboard.

Hard snowboard boots have a hard shell upper made of injection molded plastic with closures similar to downhill ski-boots. Their hard plastic soles and/or heel and toe ridges (protuberances) are intended to create the fitting for a plate binding on the snowboard.

Soft boots have applied rubber/plastic soles which are cut away or angled at the front end of the toe and back end of the heel so that they do not meet the level ground. The upper usually has an additional belt or strap across the top of the boot for protection from the binding's toe strap. Soft snowboard boots are used with a high back binding system, which involves two or three straps across the upper and a high back piece with a strap around the ankle that gives added support to the back of the ankle and lower calf. The uppers of these boots may be made of rubber/plastic, leather, textile or a combination of these materials.

Hybrid boots have attributes of both hard and soft boots. Hybrids have hard plastic soles and lower uppers made of injection molded plastic like downhill or hard snowboard boots. They also have heel and toe ridges built into the boots for attachment of bindings. Softer, cut and sewn plastics are used on the extended upper, like soft snowboard boots.

RULINGS-SNOWBOARD BOOTS

HRL 089162 dated April 29, 1992 - snowboard boots with insulating liners classified as protective footwear under subheading 6404.19.20, HTSUS.

HRL 951772 dated May 13, 1992 - snowboard boots with outer shells of plastic and inner insulating liners classified as protective footwear under subheading 6402.91.50, HTSUS.

HRL 951777 dated May 13, 1992 - "Alpine" snowboard boots with outer soles of rubber or plastics and uppers of textile materials classified as protective footwear under subheading 6404.19.20, HTSUS.

HRL 951757 dated May 13, 1992 - snowboard boots, styles "Jack's and "Boon's", with outer soles and uppers of rubber or plastics classified as protective footwear under subheading 6402.91.50, HTSUS.

HRL 952294 dated December 17, 1992 - snowboard boots with outer soles and uppers of rubber or plastics classified as protective footwear under subheading 6402.91.50, HTSUS.

ISSUE:

Are snowboard boots considered "sports footwear" within the meaning of that term as used in Subheading Note 1 to Chapter 64, HTSUS?

LAW AND ANALYSIS:

Subheading Note 1 to Chapter 64, HTSUS, reads, as follows:

1. For the purposes of subheadings 6402.11, 6402.19, 6403.11, 6403.19, and 6404.11, the expression "sports footwear" applies only to:
 - (a) Footwear which is designed for a sporting activity and has, or has provision for the attachment of spikes, sprigs, cleats, stops, clips, bars or the like;
 - (b) Skating boots, ski-boots and cross country ski footwear, wrestling boots, boxing boots and cycling shoes.

In the past Customs has taken the position that subheading note 1 to Chapter 64 should be interpreted narrowly. The rationale for our position was that this note limits sports footwear to only the general description set forth in (a) and the enumerated articles in (b). To meet the definition, an article must either meet the criteria set forth in (a) or be one of the enumerated types of footwear set forth in (b). In HRL's 089162 and 952294, Customs ruled that snowboard boots do not meet the stated criteria for being considered "sports footwear" under (a). Specifically, although they are designed for a sporting activity, they do not have attachments or provision for attachment of spikes, sprigs, cleats, stops, clips, bars or the like. Further, it was noted that the listing of the types of footwear in (b) is exclusive which would eliminate snowboard boots which are not enumerated therein from consideration as sports footwear.

It remains our opinion that snowboard boots do not meet the criteria set forth in (a) for being considered "sports footwear." However, after further review of this matter, we believe that our previous interpretation of the types of footwear covered by (b) is too narrow and that snowboard boots are of a type of ski-boot covered by (b). Our rationale for this position follows:

The tariff classification of snowboard skis is an important factor in reaching a decision as to the proper classification of snowboard boots. In HRL 085523 dated December 28, 1989, Customs ruled that snowboard skis are classifiable in subheading 9506.11.40, HTSUS, which provides for other skis. In reaching its conclusion as to the classification of snowboard skis, Customs made the following relevant statements:

It is true that snowboard skis have certain physical characteristics not possessed by traditional skis, and vice versa. However, we are of the opinion that these characteristics merely serve to distinguish the two items. Snowboard skis, are simply put, a specialized form of the traditional 'ski'. Discussions with persons familiar with the industry have indicated to us that, in the trade, 'skis' in general may be considered to be composed of at least two different types: cross-country skis and alpine skis. It is unsettled whether or not snowboard skis, or other specialty skis (for example those designed specifically for ski jumping) are properly considered to be separate types of 'skis' or are actually sub-categories of alpine skis. That determination is beyond the scope of this ruling, and we do not make such a determination here. Regardless of that determination, we are of the opinion that snowboard skis are a 'ski' of some type.

Snowboard boots are specially designed for use with snowboard skis. They are not suitable for any other purpose. Logic requires that snowboard boots that are specially designed for use solely in conjunction with a snowboard, which itself is classified as a ski, be classified as ski-boots; even if not of the traditional type of ski-boot.

At its tenth session in October 1992, the Harmonized System Committee of the Customs Cooperation Council decided to amend note 1(b) to Chapter 64 to include snowboard boots within the enumerated types of sports footwear. Under the procedure for amendments to the Harmonized System set out in Article 16 of the HS convention, this amendment was submitted to the Customs Cooperation Council. This amendment will, unless an objection is lodged by one or more contracting parties, become effective at the international level on January 1, 1996. As is the case with all such amendments, it is subject to the procedure for implementation provided in Section 1205 and 1206 of the Omnibus Trade and Competitiveness Act of 1988.

Pursuant to the amendment of note 1(b), effective January 1, 1996, snowboard boots will be grouped with ski-boots and cross-country ski footwear under new subheadings 6402.12 and 6403.12, HTSUS. We note that the HSC recognized that ski-boots and cross country ski footwear are very similar to snowboard boots in view of their use and shape. It is our opinion that this amendment to note 1(b) is an addition to what has been previously considered ski footwear and is essentially a clarification of the matter.

HOLDING:

Snowboard boots are "sports footwear" within the meaning of that term as used in Subheading Note 1 to Chapter 64, HTSUS.

Snowboard boots with outer soles and uppers of rubber or plastic are dutiable at the rate of 6% ad valorem under subheading 6402.11.00, HTSUS.

Snowboard boots with outer soles of rubber, plastics, leather or composition leather and uppers of leather are dutiable at the rate of 10% ad valorem under subheading 6403.11.60, HTSUS.

Any rulings inconsistent with the result reached here are revoked.

Sincerely,


Harvey B. Fox, Director
Office of Regulations &

**APPENDIX F
CUSTOMS NOTIFICATION
CONCERNING RATES OF DUTY
APPLIED TO STILL IMAGE VIDEO
CAMERAS**

UNITED STATES GOVERNMENT

MemorandumDEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: SEP 15 1993

FILE: CO:R:I GAH
000562.1

TO : Sylvia McDonough
GATT Affairs
Office of the US Trade Representative

FROM : Myles Harmon, Director 
International Nomenclature Staff
Office of Regulations and Rulings
US Customs Service

SUBJECT: Comments on USITC Proposed Modifications to the HTSUS,
Investigation No. 1205-3

As requested in your memorandum of August 31, 1993, we have reviewed the International Trade Commission's (ITC) report on the above-captioned matter and offer the following comments.

Effective in 1996, the Harmonized System Committee has approved the amendment of the text of heading 8525 to specifically include still image video cameras, grouping them with television cameras. On page B-105 of its 1205-3 report, the Commission proposes new subheading 8525.40.40, still image video cameras, to reflect that decision, and to specifically provide for such products. The Commission notes that the existing tariff treatment of these cameras was the subject of litigation, Canon U.S.A., Inc. v. United States, CIT No. 92-03-00202, at the time of the report's publication. At the Customs Service's request, the Commission declined to propose duty rates, pending an outcome in that matter.

That matter has now been settled. The Court of International Trade ruled, see 27 Cus. Bul. 17 (August 11, 1993), that still video cameras are properly classifiable as television cameras under current HTSUS subheading 8525.30.00, dutiable at 4.2 percent ad valorem. As a result, the Customs Service has modified its position and issued rulings in line with that decision. See rulings 954725, 954726, and 954727 of August 17, 1993, copies attached. Accordingly, we request that the rate assigned to proposed subheading 8525.40.40 reflect the existing rate of duty applicable to our current classification; that is, 4.2 percent ad valorem.

Please let us know if you would like anything further in this regard.



DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON, D.C.

HQ 954725

AUG 17 1993

CLA-2 CO:R:C:M 954725 CMS

CATEGORY: Classification

TARIFF NO.: 8525.30.00
8523.20.00

Sal Della Ventura, Manager
Classification and Compliance
Sony Corporation of America
Sony Drive
Park Ridge, NJ 07656

RE: HQ 086848, Modified; Electronic Still Image Video
Cameras; 9013.80.60

Dear Mr. Della Ventura:

In HQ Ruling 086848 (April 20, 1990), issued to Sony Corporation of America, we classified certain Sony still video cameras in subheading 9013.80.60, HTSUS. HQ 086848 classified still video magnetic recording discs in subheading 8523.20.00, HTSUS.

Still video cameras are in a field of changing technology, and we have reconsidered this issue. After further review of the matter, it has now been determined that the proper classification of the still video cameras is in subheading 8525.30.00, HTSUS, which provides for television cameras.

FACTS:

Still video cameras ("SVC's") utilize solid-state electronic technology and incorporate charge coupled devices ("CCD's"). CCD's are semiconductors which contain a grid of numerous photosensitive cells, or pixels. As the image-forming light of an object is focused onto the grid, each pixel receives a certain quantity of light which is translated into an electrical charge. The result is a pattern of electrical charges which represents an image. The electrical charges are subsequently processed by the SVC into magnetic analog signals for storage on a magnetic "floppy" disc. Up to 50 still images can be stored on the floppy disc.

The images can then be viewed on a television screen or video monitor, or hard copies can be made with an electronic printer. Some SVC's allow the user to automatically record up to 20 "frames" per second, and to play back successive frames on television sets or video monitors.

ISSUE:

Is the merchandise classified as other optical appliances in heading 9013, HTSUS, or as television cameras in heading 8525, HTSUS?

LAW AND ANALYSIS:

The HTSUS provides that the classification of articles is governed by the General Rules of Interpretation (GRI's). GRI 1 states in pertinent part that "...classification shall be determined according to the terms of the headings and any relative section or chapter notes...".

Heading 8525 in part describes television cameras. Heading 9013 in part describes other optical appliances.

The Harmonized Commodity Description and Coding System Explanatory Notes, although not dispositive, are to be given considerable weight in the interpretation of the HTSUS. Boast, Inc. v. United States, No. 93-20 (CIT February 10, 1993). See also H. Conf. R. No. 100-576, 100th Cong., 2d Sess. at 549, reprinted in 1988 U.S. CODE CONG. & ADMIN. NEWS 1581-83.

The Explanatory Notes to heading 8525, p. 1375, provide guidance on the intended scope of the term "television cameras". The Explanatory Notes provide that the term not only covers cameras for use in television broadcasting, but also cameras "...used for industrial or scientific purposes or for supervising traffic...or for underwater work...". The Explanatory Notes additionally provide that heading 8525 "television cameras" include "...portable cameras with or without a built-in video recorder...".

In HQ 086848, we found that television cameras capture rapidly changing images, usually up to 30 "frames" per second. We understand that 30 images per second (ips) is standard for most television broadcasting cameras in the United States. However, just as the Explanatory Notes to heading 8525 indicate that television cameras are not limited to cameras for television broadcasting, we believe that heading 8525 cameras are not limited to those which capture images at 30 ips.

We note that some SVC's do automatically capture successive images (e.g., up to a continuous shooting speed of 20 ips). We also note that images captured by SVC's can be viewed on television cameras or video monitors equipped to image National Television Systems Committee (NTSC) signals. We understand that some SVC's can be connected to a television set or video monitor for viewing in "real time" to make adjustments for lighting or composition purposes.

Other similarities between SVC's and solid state television cameras which are clearly classified in heading 8525, HTSUS, are the use of charge coupled devices, color separation circuits, color adjustment circuits and color matrix encoder circuits. Additional similarities may continue to develop.

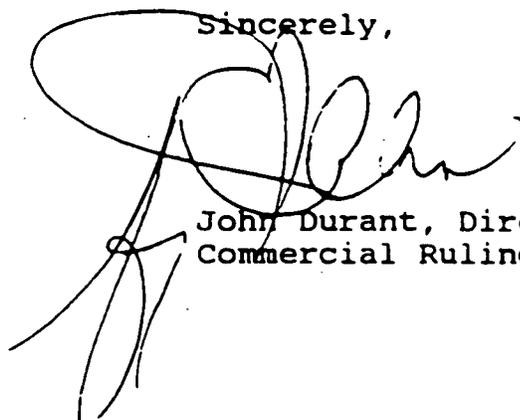
We believe that CCD cameras known as still video cameras, or electronic still image cameras, are within a class or kind of merchandise classified, under the current language of the HTSUS, as "[T]elevision cameras: ...Television cameras", in subheading 8525.30.00, HTSUS.

HQ 086848 properly classified still video magnetic recording discs in subheading 8523.20.00, HTSUS.

HOLDING:

Still video cameras are classified as "[T]elevision cameras: ...Television cameras", in subheading 8525.30.00, HTSUS, currently subject to a Column 1 General rate of duty of 4.2%, ad valorem. HQ 086848 (April 20, 1990) is modified to provide that the cameras are classified in subheading 8525.30.00, HTSUS. The classification of the recording discs in subheading 8523.20.00, HTSUS, is affirmed.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'John Durant', is written over the typed name and title.

John Durant, Director
Commercial Rulings Division



DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON, D.C.

HQ 954726

AUG 17 1993

CLA-2 CO:R:C:M 954726 CMS

CATEGORY: Classification

TARIFF NO.: 8525.30.00
8523.20.00

John B. Rehm, Esq.
Dorsey & Whitney
1330 Connecticut Ave., N.W.
Suite 200
Washington, DC 20036

RE: HQ 086847 and HQ 088336, Modified; Electronic Still
Image Video Cameras; 9013.80.60

Dear Mr. Rehm:

In your submission dated June 23, 1993, on behalf of Canon U.S.A., Inc., you requested a ruling on the classification of "still video cameras" under the Harmonized Tariff Schedule of the United States (HTSUS).

In HQ Ruling 086847 (April 20, 1990), issued to Canon U.S.A., Inc., we classified certain Canon still video cameras in subheading 9013.80.60, HTSUS. HQ 086847 classified still video magnetic recording discs in subheading 8523.20.00, HTSUS. Our determination in HQ 086847 was affirmed by HQ 088336, issued to you on behalf of Canon U.S.A., Inc., on August 20, 1991.

Still video cameras are in a field of changing technology, and we have reconsidered this issue. After further review of the matter, it has now been determined that the proper classification of the still video cameras is in subheading 8525.30.00, HTSUS, which provides for television cameras.

FACTS:

The cameras at issue in HQ 086847 consisted of Canon Still Video Camera models RC 470, RC 760, RC 701 and RC 250. Still video cameras ("SVC's") utilize solid-state electronic technology and incorporate charge coupled devices ("CCD's"). CCD's are semiconductors which contain a grid of numerous photosensitive cells, or pixels. As the image-forming light of an object is focused onto the grid, each pixel receives a certain quantity of

light which is translated into an electrical charge. The result is a pattern of electrical charges which represents an image. The electrical charges are subsequently processed by the SVC into magnetic analog signals for storage on a magnetic "floppy" disc. Up to 50 still images can be stored on the floppy disc.

The images can then be viewed on a television screen or video monitor, or hard copies can be made with an electronic printer. Some of the Canon models allow the user to automatically record up to 20 "frames" per second, and to play back successive frames on television sets or video monitors.

ISSUE:

Is the merchandise classified as other optical appliances in heading 9013, HTSUS, or as television cameras in heading 8525, HTSUS?

LAW AND ANALYSIS:

The HTSUS provides that the classification of articles is governed by the General Rules of Interpretation (GRI's). GRI 1 states in pertinent part that "...classification shall be determined according to the terms of the headings and any relative section or chapter notes...".

Heading 8525 in part describes television cameras. Heading 9013 in part describes other optical appliances.

The Harmonized Commodity Description and Coding System Explanatory Notes, although not dispositive, are to be given considerable weight in the interpretation of the HTSUS. Boast, Inc. v. United States, No. 93-20 (CIT February 10, 1993). See also H. Conf. R. No. 100-576, 100th Cong., 2d Sess. at 549, reprinted in 1988 U.S. CODE CONG. & ADMIN. NEWS 1581-83.

The Explanatory Notes to heading 8525, p. 1375, provide guidance on the intended scope of the term "television cameras". The Explanatory Notes provide that the term not only covers cameras for use in television broadcasting, but also cameras "...used for industrial or scientific purposes or for supervising traffic...or for underwater work...". The Explanatory Notes additionally provide that heading 8525 "television cameras" include "...portable cameras with or without a built-in video recorder...".

In HQ 086847, we found that television cameras capture rapidly changing images, usually up to 30 "frames" per second. We understand that 30 images per second (ips) is standard for most television broadcasting cameras in the United States.

However, just as the Explanatory Notes to heading 8525 indicate that television cameras are not limited to cameras for television Broadcasting, we believe that heading 8525 cameras are not limited to those which capture images at 30 ips.

We note that some of the Canon SVC's do automatically capture successive images (e.g., the Model 470 has a continuous shooting speed of 20 ips). We also note that the images captured by the SVC's can be viewed on television cameras or video monitors equipped to image National Television Systems Committee (NTSC) signals. We understand that one Canon SVC not at issue in HQ 086847 can be connected to a television set or video monitor for viewing in "real time" to make adjustments for lighting or composition purposes.

Other similarities between SVC's and solid state television cameras which are clearly classified in heading 8525, HTSUS, are the use of charge coupled devices, color separation circuits, color adjustment circuits and color matrix encoder circuits. Additional similarities may continue to develop.

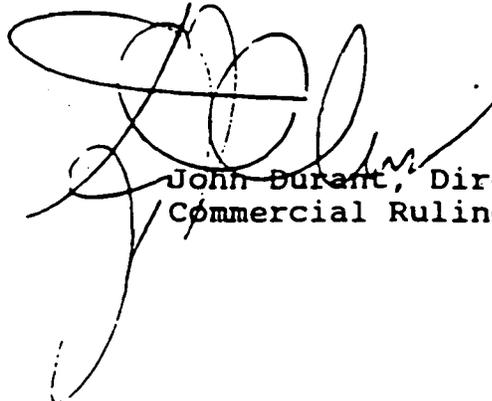
We believe that CCD cameras known as still video cameras, or electronic still image cameras, are within a class or kind of merchandise classified, under the current language of the HTSUS, as "[T]elevision cameras: ...Television cameras", in subheading 8525.30.00, HTSUS.

HQ 086847 properly classified still video magnetic recording discs in subheading 8523.20.00, HTSUS.

HOLDING:

Still video cameras are classified as "[T]elevision cameras: ...Television cameras", in subheading 8525.30.00, HTSUS, currently subject to a Column 1 General rate of duty of 4.2%, ad valorem. HQ 086847 (April 20, 1990), and HQ 088336 (August 20, 1991), are modified to provide that the cameras are classified in subheading 8525.30.00, HTSUS. The classification of the recording discs in subheading 8523.20.00, HTSUS, is affirmed.

Sincerely,



John Durant, Director
Commercial Rulings Division



DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON, D.C.

HQ 954727

AUG 17 1993

CLA-2 CO:R:C:M 954727 CMS

CATEGORY: Classification

TARIFF NO.: 8525.30.00
8523.20.00

Gerald N. Campe, Manager
Int'l. Distribution and Corporate Traffic
Minolta Corporation
101 Williams Drive
Ramsey, N.J. 07446

RE: HQ 082266, Modified; Electronic Still Image Video
Cameras; 9013.80.60

Dear Mr. Campe:

In HQ Ruling 082266 (April 3, 1990), issued to Minolta Corporation, we classified certain Minolta still video cameras in subheading 9013.80.60, HTSUS. HQ 082266 classified still video magnetic recording discs in subheading 8523.20.00, HTSUS.

Still video cameras are in a field of changing technology, and we have reconsidered this issue. After further review of the matter, it has now been determined that the proper classification of the still video cameras is in subheading 8525.30.00, HTSUS, which provides for television cameras.

FACTS:

Still video cameras ("SVC's") utilize solid-state electronic technology and incorporate charge coupled devices ("CCD's"). CCD's are semiconductors which contain a grid of numerous photosensitive cells, or pixels. As the image-forming light of an object is focused onto the grid, each pixel receives a certain quantity of light which is translated into an electrical charge. The result is a pattern of electrical charges which represents an image. The electrical charges are subsequently processed by the SVC into magnetic analog signals for storage on a magnetic "floppy" disc. Up to 50 still images can be stored on the floppy disc.

The images can then be viewed on a television screen or video monitor, or hard copies can be made with an electronic printer. Some SVC's allow the user to automatically record up to 20 "frames" per second, and to play back successive frames on television sets or video monitors.

ISSUE:

Is the merchandise classified as other optical appliances in heading 9013, HTSUS, or as television cameras in heading 8525, HTSUS?

LAW AND ANALYSIS:

The HTSUS provides that the classification of articles is governed by the General Rules of Interpretation (GRI's). GRI 1 states in pertinent part that "...classification shall be determined according to the terms of the headings and any relative section or chapter notes...".

Heading 8525 in part describes television cameras. Heading 9013 in part describes other optical appliances.

The Harmonized Commodity Description and Coding System Explanatory Notes, although not dispositive, are to be given considerable weight in the interpretation of the HTSUS. Boast, Inc. v. United States, No. 93-20 (CIT February 10, 1993). See also H. Conf. R. No. 100-576, 100th Cong., 2d Sess. at 549, reprinted in 1988 U.S. CODE CONG. & ADMIN. NEWS 1581-83.

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Other similarities between SVC's and solid state television cameras which are clearly classified in heading 8525, HTSUS, are the use of charge coupled devices, color separation circuits, color adjustment circuits and color matrix encoder circuits. Additional similarities may continue to develop.

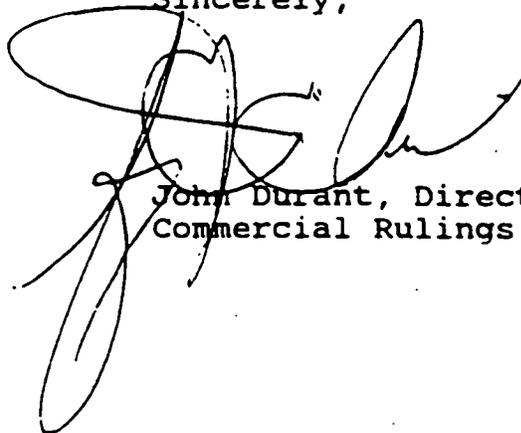
We believe that CCD cameras known as still video cameras, or electronic still image cameras, are within a class or kind of merchandise classified, under the current language of the HTSUS, as "[T]elevision cameras: ...Television cameras", in subheading 8525.30.00, HTSUS.

HQ 082266 properly classified still video magnetic recording discs in subheading 8523.20.00, HTSUS.

HOLDING:

Still video cameras are classified as "[T]elevision cameras: ...Television cameras", in subheading 8525.30.00, HTSUS, currently subject to a Column 1 General rate of duty of 4.2%, ad valorem. HQ 082266 (April 3, 1990) is modified to provide that the cameras are classified in subheading 8525.30.00, HTSUS. The classification of the recording discs in subheading 8523.20.00, HTSUS, is affirmed.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'John Durant', is written over the typed name and title.

John Durant, Director
Commercial Rulings Division

APPENDIX G
***FEDERAL REGISTER* NOTICE OF**
COMMISSION'S RE-OPENING OF
INVESTIGATION NO. 1205-3

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-360]

Certain Devices for Connecting Computers via Telephone Lines; Notice of Request for Additional Written Submissions on the Scope of a Proposed Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission seeks additional written submissions on the scope of a proposed exclusion order that may be issued in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Elizabeth C. Rose, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436. Telephone: (202) 205-3113.

SUPPLEMENTARY INFORMATION: Farallon Computing, Inc. ("Farallon") filed a complaint on October 12, 1993, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), alleging that certain respondents had violated section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain devices for connecting computers via telephone lines. The Commission published a notice of investigation in the Federal Register on November 17, 1993 (58 FR 60671).

On June 28, 1994, the Commission determined not to review a final initial determination issued by the presiding administrative law judge finding a violation of section 337 in this investigation. The Commission requested written submissions on the issues of remedy, the public interest, and bonding. See 59 FR 34862-63 (July 7, 1994). Both complainant Farallon and the Commission investigative attorney proposed that the Commission issue a general exclusion order that "excluded from entry into the United States," devices for connecting computers via telephone lines that are covered by claims 10, 18, or 20 of U.S. Letters Patent 5,003,579, for the remaining term of the patent, except under license of the patent owner or as provided by law.

In connection with recent deliberations concerning the scope of the exclusion order issued in 1984 in Inv. Nos. 337-TA-148/169, *Certain Processes for the Manufacture of Skinless Sausage Casings and Resulting Product*, the Commission became aware

that the U.S. Customs Service interprets the term "exclusion from entry" differently from a majority of the Commission. The Commission therefore wishes to avoid any ambiguity inherent in the use of this term by stating more precisely in any exclusion order that may be issued exactly what is and is not covered by the order.

Written Submissions

The parties to the investigation, interested government agencies, in particular the U.S. Customs Service, and any other interested persons are encouraged to file written submissions on the scope of the proposed exclusion order and in particular on the use of the terms "exclusion from entry" and "entry." Such written submissions must be filed no later than the close of business on Monday, October 3, 1994.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.58 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.58).

Copies of Farallon's and the Commission investigative attorney's proposed exclusion orders and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

Issued: September 13, 1994.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 94-23361 Filed 9-20-94; 8:45 am]
BILLING CODE 7020-02-P

[Investigation No. 337-TA-349]

Certain Diltiazem Hydrochloride and Diltiazem Preparations; Notice of Designation of Additional Commission Investigative Attorney

Notice is hereby given that, as of this date, John M. Whealan, Esq. and Juan S. Cockburn, Esq. of the Office of Unfair Import Investigations are designated as the Commission investigative attorneys in the above-cited investigation instead of John M. Whealan, Esq.

The Secretary is requested to publish this Notice in the Federal Register.

Dated: September 9, 1994.

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 94-23362 Filed 9-20-94; 8:45 am]
BILLING CODE 7020-02-P

[Investigation No. 1205-3]

Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (Addendum)

AGENCY: United States International Trade Commission.

ACTION: Re-opening of investigation: request for comments on draft addendum to the Commission's report on investigation No. 1205-3 of August 24, 1993.

EFFECTIVE DATE: September 1, 1994.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (telephone 202-205-2592) or Holm J. Kappler, Deputy Director (O/TA&TA) (202-205-2598), U.S. International Trade Commission, Washington, DC 20436.

Background and Scope of Investigation

The Commission has reopened investigation No. 1205-3, *Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988* to address (1) the non-acceptance by contracting parties to the Harmonized System Convention of certain proposed amendments to the Harmonized System nomenclature and (2) changes in the

tariff treatment accorded by the U.S. Customs Service to certain other products covered by the Commission's August 1993 report on this investigation.

Section 1205 (19 U.S.C. 3005) directs the Commission to keep the Harmonized Tariff Schedule of the United States (HTS) under continuous review and to recommend modifications of the HTS to the President (1) when amendments to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System or HS) are recommended by the Customs Cooperation Council (CCC) for adoption and (2) as other circumstances warrant.

In July 1993, the CCC recommended certain amendments to the nomenclature of the international Harmonized System, in accordance with Article 16 of the Harmonized System Convention. The Commission's report on investigation No. 1205-3 addressed the CCC recommended amendments. However, since the issuance of the Commission's report, a number of HS contracting parties have entered objections with the CCC with respect to certain of the proposed amendments to the HS Convention. As a result, the CCC withdrew those amendments from its final recommendation. The modifications in the recommended amendments to the HS Convention will necessitate conforming changes in the Commission's recommendations made in its report of August 1993.

In addition, the Commission has received further information concerning the tariff treatment accorded by the U.S. Customs Service to certain other products covered by the August 1993 report. This additional information and certain technical corrections should also be reflected in the Commission's report.

For these reasons, the Commission has decided to re-open its investigation in this matter for the purpose of issuing an addendum to its report on investigation No. 1205-3 with respect to the matters described above. The Commission's August 1993 report on investigation No. 1205-3 (USITC Publication 2673) and the addendum proposed to be appended thereto are available from the Office of the Secretary, Room 112, United States International Trade Commission, 500 E Street SW., Washington, DC 20436 (telephone (202) 205-2000).

The majority of the proposed modifications to the Commission's report result from the non-acceptance by the contracting parties of certain proposed amendments to the Harmonized System nomenclature and from technical and editorial

amendments appearing in the final CCC recommendation. These amendments principally concerned:

- subdivision of refined petroleum products under heading 27.10,
- revision of the subheadings for oxygen-function amino compounds under heading 29.22,
- subdivision of the provision for acrylic polymers under subheading 3906.90,
- modification of the chapter 61 and 62 notes concerning the definition of ensembles,
- creation of new subdivisions for high-definition television apparatus under headings 85.28 and 85.40, and
- transfer of certain optical fiber cables from heading 85.44 to heading 90.01.

Other proposed modifications to the Commission's report concern the classification of:

- snowboard boots,
- still image video cameras,
- power supplies for automatic data processing machines, and
- cordless handset telephones.

The Commission must solicit, and give consideration to, the views of interested Federal agencies and the public before proposing recommendations to the HTS under section 1205. Further, the Commission's report to the President must present its recommendations, summarize the information on which its recommendations are based, and provide a statement of the probable economic effects of recommended changes on any industry in the United States. A copy of all written comments received from Federal agencies and a copy (or Commission-prepared summary) of the views of other interested parties must also be included.

Pursuant to section 1206 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3006), the President may proclaim modifications to the HTS (on the basis of recommendations by the Commission under section 1205) if he determines that the modifications are in conformity with U.S. obligations under the HS Convention and do not run counter to the U.S. economic interest. The President may proclaim such modifications only after the expiration of a 60 legislative day lay-over period beginning on the date he submits a report to the House Ways and Means Committee and the Senate Finance Committee that sets forth the proposed modifications and the reasons therefor. Modifications proclaimed by the President may not become effective before the 15th day after the

proclamation is published in the Federal Register.

Notice of institution of the original investigation and scheduling of a hearing was published in the Federal Register of May 20, 1993 (58 F.R. 29433).

Written Submissions

Interested parties, including other Federal agencies, are invited to submit written statements concerning the subject of the draft addendum. Each statement must be submitted by not later than October 28, 1994, in order to be considered by the Commission. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205-1810.

Issued: September 13, 1994.
By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 94-23363 Filed 9-20-94; 8:45 am]
BILLING CODE 7020-02-P

INTERSTATE COMMERCE COMMISSION

(Finance Docket No. 31922 (Sub-No. 1))

Wisconsin Central Ltd.—Purchase Exemption—Soo Line Railroad Company Line Between Superior and Ladysmith, WI

AGENCY: Interstate Commerce Commission.

ACTION: Notice seeking comments on the issue of whether employees affected by a purchase transaction may have test period averages (TPAs).¹

¹ Test period average is defined as all compensation received by the employee and all time for which he was paid for the 12-month period immediately preceding the date of his displacement divided by 12. The TPA produces a monthly average compensation and average monthly time for which the employee was paid.

APPENDIX H
WRITTEN SUBMISSIONS FROM THE
PRIVATE SECTOR

LAW OFFICES
GEORGE R. TUTTLE
A PROFESSIONAL CORPORATION
THREE EMBARCADERO CENTER, SUITE 1160
SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE: (415) 986-8780
FACSIMILE: (415) 986-0908

DIRECT LINES
AREA CODE (415)

GEORGE R. TUTTLE 288-0425
CARL D. CAMMARATA 288-0426
STEPHEN S. SPRAITZAR 288-0427
GEORGE R. TUTTLE, III 288-0428

October 27, 1994

FILE REFERENCE NO.

1627

Secretary
International Trade Commission
505 E Street, S.E.
Washington, D.C. 20436

Re: Investigation No. 1205-3; Proposed
Modifications To The Harmonized Tariff
Schedule Of The United States

94 OCT 28 AM 5:34
U.S. INT'L TRADE COMMISSION
REC'D

Dear Sir/Madam:

On behalf of Computer Products, Inc., we wish to submit comments with regard to Investigation No. 1205, Proposed Modifications to the Harmonized Tariff Schedule of the United States, pursuant to Section 1205 of the Omnibus Trade And Competitiveness Act of 1988.

Computer Products' interest relates to the proposed changes involving the tariff classification of power supplies imported into the United States. Currently, Computer Products' power supplies are being classified under HTS 8471.99.32, free of duty, as power supply units suitable for physical incorporation into ADP machines or units thereof, under HTS 8471.99.34 as another ADP power supply at 3%, or under HTS 8504.4000 as a static converter, rectifiers and rectifying apparatus at the duty-rate of 3% ad valorem.

Statement Of Computer Products' Position

It is Computer Products' position that ADP power supplies should be classified in Chapter 84 rather under Chapter 85. This is supported by the history behind the current provisions for ADP power supplies, as well as the fact that ADP power supplies are more akin to the articles in Headings 8471-73 than the items in Chapter 85.

Background Information

As the ITC is aware, current HTS Subheadings 8471.99.32 and HTS 8471.99.34 were created as a result of Presidential Proclamation 6310, which was issued to incorporate the court holding of certain litigation pursued by Digital Equipment Corporation ("DEC Decision") in the U.S. Court of International Trade, which was affirmed on appeal before the U.S. Court of Appeals for the Federal Circuit. These court Decisions held that ADP power supply units were not rectifiers or rectifying apparatus, but were units of ADP machines. The DEC Decision was evaluated by the ITC, as required by the Omnibus Trade and Competitiveness Act of 1988, to determine whether the holding of the DEC case should be incorporated into the Harmonized System. After reviewing the public comments with regard to this, the ITC recommended that the holding of the DEC Decision should be carried forward into the Harmonized System. This recommendation was forwarded to the President, who issued Presidential Proclamation 6310, creating new subheadings 8471.99.32 and HS 8471.99.34. Thus, there was substantial work leading up to the issuance of Presidential Proclamation 6310, including extensive litigation and a review by the ITC. Importers who had worked in supporting the break-outs promulgated in Presidential Proclamation 6310 have come to expect that the Proclamation would not be disturbed and that power supplies for ADP machines and units thereof would remain in Chapter 84.

Basis For Proposed Reclassification ADP Power Supplies

We understand that the reason for the reclassification of ADP power supplies from Chapter 84 to Chapter 85 is the result of modifications to Chapter 84, Note 5(B), which would require that all ADP units be "able to accept or deliver data in a form (codes or signals) which can be used by the system." The proposed change eliminates the exclusion of power supplies, which is currently in the existing version of Chapter 84, Note 5B. Since ADP power supplies do not deliver data, they would not be classified as a "ADP" unit. Because of this, the ITC proposes to classify ADP power supplies as static converters in Heading 8504.

Computer Products Objects To The Proposed
Reclassification Of ADP Power Supplies

To change classification of ADP power supplies from Chapter 84 to 85 would essentially undermine and undo all of the work that has led up to the issuance of Presidential Proclamation 6310, resulting in a duty free breakout for power supplies which are suitable for incorporation into ADP machines or units thereof. Clearly, because of their nature and because of the intent expressed by the President in Proclamation 6310, ADP power supplies should remain in Chapter 84. As such, we believe that the ITC should retain a breakout in 8471 or create a new breakout in 8473 to provide for power supplies solely or principally used with the machines or units of Heading 8471 and suitable for physical incorporation therein, free of duty.

The fact that ADP power supplies should not be included in Chapter 85 is supported by the holding of the DEC court case, which held that the ADP power supplies were not rectifiers and rectifying apparatus which, under the Harmonized System, are in Heading 8504. This is further supported by the fact that the U.S. Customs Service has held that certain ADP power supplies, which include many of the features similar to the power supplies in the DEC case, are not "static converters" (see enclosed Headquarters Ruling #955728).

We also wish to note that the new heading for power supplies in HTS 8504.40.60, providing for "static converters: power supplies suitable for physical incorporation into automatic data processing machines of Heading 8471" does not provide for units of ADP machines, as is provided for in current HTS subheading 8471.99.32. Thus, certain power supplies used in printers, disk drives, etc., which are currently afforded duty-free treatment pursuant to Presidential Proclamation 6310, would be excluded from duty free treatment if these changes were to go into effect.

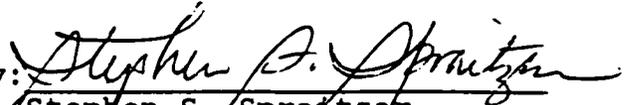
In light of the foregoing, we respectfully request that the proposed inclusion of ADP power supplies into Heading 8504 be rejected and that there continue to be breakouts for

Secretary
10/27/94
Page 4

ADP power supplies in Heading 8471, or, alternatively, in
Heading 8473.

Very truly yours,

Law Offices Of
GEORGE R. TUTTLE,
A Professional Corporation

By: 
Stephen S. Spratzar

SSS:27:eo:win/power/secret

>HQ 955728 06-29-94 CATEGORY: Classification

HQ 955728
June 29, 1994

CLA-2 CO:R:C:M 955728 DWS

CATEGORY: Classification

TARIFF NO.: 8471.99.32

Mr. Stephen S. Spraitzar
George R. Tuttle, P.C.
Three Embarcadero Center, Suite 1160
San Francisco, CA 94111

RE: Power Supply Modules for ADP Machines; Static Converters;
Explanatory Notes 85.04(II) and 84.71(D); Chapter 84,
Note 5(B); HQs 087907, 083956, 087050, 086513, and 953463;
NY 851581; 8504.40.80

Dear Mr. Spraitzar:

This is in response to your letters of January 10, May 5, and June 2, 1994, on behalf of Astec America, Inc., concerning the classification of power supply modules under the Harmonized Tariff Schedule of the United States (HTSUS).

FACTS:

The merchandise consists of power supply modules (model nos. AM80A, BM80A, AL80A, AL60A, and AK80) which are specifically designed and principally used for physical incorporation into automatic data processing (ADP) machines or ADP peripheral systems. The principal function of the power supply modules is to supply to an ADP system a voltage which is highly stabilized and regulated.

The AM80A includes linear programming capability and the ability to monitor circuits. It also has a computer control interface, designed to comply with world-wide safety agencies. It has a maximum output of 240 watts (W). The BM80A possesses the same features as the AM80A, except it has a maximum output of 300 W. The AL80A operates at a maximum power output of 240 W and possesses the same features as the AM80A except for over-voltage programming. The AL60A has the same features as the AL80A, except it has a maximum power output of 120 W. The AK80A is the "low-end" module with a maximum power output of 240 W, but with fewer features than the AM80A and the AL80A.

All of the power supply modules also possess transient

suppression of electromagnetic transmissions; current overload protection; energy storage; over-voltage, over-current, and over-temperature protection; computer interface capability; and on-off capability.

The subheadings under consideration are as follows:

8504.40.80: [s]tatic converters: [o]ther.

The general, column one rate of duty for goods classifiable under this provision is 3 percent ad valorem.

8471.99.32: [a]utomatic data processing machines and units thereof . . . : [o]ther: [o]ther: [p]ower supplies: [u]nits suitable for physical incorporation into automatic data processing machines or units thereof.

Goods classifiable under this provision receive duty-free treatment.

ISSUE:

Whether the power supply modules are classifiable under subheading 8504.40.80, HTSUS, as other static converters, or under subheading 8471.99.32, HTSUS, as power supply units suitable for physical incorporation into ADP machines.

LAW AND ANALYSIS:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRI's), taken in order. GRI 1 provides that classification is determined according to the terms of the headings and any relative section or chapter notes.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes, although not dispositive, are to be used to determine the proper interpretation of the HTSUS. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989). In part, Explanatory Note 85.04(II) (pp. 1338, 1339) states:

(II) ELECTRICAL STATIC CONVERTERS

The apparatus of this group are used to convert electrical energy in order to adapt it for further use. They incorporate converting elements (e.g., valves) of different types. They may also incorporate various auxiliary devices (e.g., transformers, induction coils, resistors, command regulators, etc.). Their operation is based on the

principle that the converting elements act alternately as conductors and non-conductors. . .

This group includes:

(A)-(C) xxx

(D) Direct current converters by which direct current is converted to a different voltage. . .

This heading also includes stabilised suppliers (rectifiers combined with a regulator), except those specifically designed to form a unit of heading 84.71.

In part, Explanatory Note 84.71(D) (pp. 1299, 1300) states:

(D) SEPARATELY PRESENTED UNITS

This heading also covers separately presented constituent units of data processing systems. Constituent units are those defined in Parts (A) and (B) above as being parts of a complete system.

Apart from central processing units and input and output units, examples of such units include:

(1)-(5) xxx

(6) Power supply units, whose main function is to supply continuously, under the control of the system to which they belong, the appropriate stabilised power level in response to the requirements of the various units making up the system.

Chapter 84, note 5(B), HTSUS, states that:

(B) Automatic data processing machines may be in the form of systems consisting of a variable number of separately housed units. A unit is to be regarded as being a part of the complete system if it meets all of the following conditions:

(a) It is connectable to the central processing unit either directly or through one or more other units; and

(b) It is specifically designed as part of such a system (it must, in particular, unless it is a power supply unit, be able to accept or deliver data in a form (code or signals) which can be used by the system.

We agree that the power supply modules operate in part as static converters. However, it is our position that with the ability of the modules to perform other functions, they are not described under heading 8504, HTSUS. Therefore, we find that the merchandise is not classifiable under subheading 8504.40.00, HTSUS. Also, even if the power supply modules were described under heading 8504, HTSUS, Explanatory Note 85.04 precludes their classification in that provision because it is our position that they are specifically designed to form units of heading 8471, HTSUS.

In HQ 087907, dated July 26, 1991, a power supply unit similar to the subject merchandise was held to be classifiable under heading 8471, HTSUS. The unit performed the various functions of transforming higher voltage into lower voltage, controlling electrical noise, storing power in the event of a power disruption, causing the computer to store data, and shutting the power supply down in the event of a malfunction. See also NY 851581, dated April 28, 1990, HQ 083956, dated April 12, 1989, and HQ 087050, dated August 21, 1990.

It is our position that the power supply modules meet the terms of heading 8741, HTSUS, and Explanatory Note 87.41. First they are units of ADP machines. In HQ 086513, dated March 2, 1990, it was stated that:

[l]egal Note 5(B) denotes that power supplies are units of ADP machines even though they do not accept or deliver code or signals to the system, and that power supplies, entered separately are to be classified in heading 8471 (which provides for units) . . .

Therefore, classification of power supplies for ADP machines appropriate under subheading 8471.99.30, HTSUSA, which unequivocally provides for ADP power supplies. (emphasis supplied).

Therefore, power supplies for ADP machines are units of ADP machines and are specifically classifiable under heading 8471, HTSUS.

Second, the subject power supply modules meet the definition of power supply units in Explanatory Note 84.71. It is our position that the modules supply continuously under the control of the ADP system to which they belong, the appropriate power level in response to the requirements of the units making up the ADP system. For example, an ADP system exerts control over a power supply module by causing it, in response to an increased power demand (i.e., uploading a computer program from the disk drive), to supply the appropriate power level (current) in response to the requirements of the system.

In HQ 953463, dated September 28, 1993, we held power supply units, similar to the subject merchandise, which were suitable for physical incorporation into ADP machines to be classifiable under subheading 8471.99.32, HTSUS.

Therefore, in accordance with our previous holdings, it is our position that the subject power supply modules are classifiable under subheading 8471.99.32, HTSUS.

HOLDING:

The power supply modules (model nos. AM80A, BM80A, AL80A, AL60A, and AK80) are classifiable under subheading 8471.99.32, HTSUS, as power supply units suitable for physical incorporation into ADP machines.

Sincerely,

John Durant, Director

Digital Equipment Corporation
50 Nagog Park
Acton, Massachusetts 01720-3499
508.264.7600

digital

27 October 1994

Secretary
United States International Trade Commission
500 E Street SW
Washington, DC 20436

Attn: Eugene A Rosengarten, Esq.
Director, Office of Tariff Affairs and Trade
Agreements

Re: Investigation No. 1205-3: Proposed Modification to the
Harmonized Tariff Schedules of the United States.

Dear Madam Secretary:

In accordance with Proposed Modifications to the Harmonized
Tariff Schedule of the United States, (Addendum), 59 Fed.,
Reg., 48449 (September 21, 1994), Digital Equipment
Corporation (Digital) wishes to register its strong
objection to tariff changes relating to computer products
and parts proposed as part of the above investigation.

In particular, we believe that proposed changes to the
tariff treatment of computer power supplies are contrary to
decisions of the United States Court of International Trade
and the Court of Appeals for the Federal Circuit, a prior
Presidential Proclamation and the interests of the United
States data processing industry.

The Commission's Draft Addendum to the Report on
Investigation No. 1205-3, Publication XXXX, August 1994,
proposes the following new provision for computer power
supplies:

"Static converters"

8504.40.60 Power supplies suitable for
physical incorporation into
automatic data processing
machines of heading 8471.... Free

8504.40.90 Other..... 3%

Madam Secretary
Page 2
27 October 1994

Computer power supplies are not "static converters" or rectifiers. That fact previously has been determined by the United States Court of International Trade and the United States Court of Appeals for the Federal Circuit.² Digital proved to the satisfaction of those Courts that power supply assemblies for computers are complex and specialized equipment which are properly classified with the products which ultimately incorporate them. The opinion of the Customs Cooperation Council (CCC) on this issue appears to us to have little weight when compared with the rigorous review conducted by the United States Courts.

Equally as important, the existing HTS provision for computer power supplies was the subject of specific Presidential review just a few years ago. Presidential Proclamation 63103 was issued at the request of Digital and virtually the entire United States data processing industry, and with the recommendation of the Commission itself.⁴

The Proclamation directed that power supplies for computers were to be classified in Chapter 84 and not Chapter 85 of the Harmonized Tariff System. We are at a loss to understand why the Commission would consider the proposed change (which has been neither requested, nor endorsed by the United States data processing industry) over the prior decision of the President.

In addition, our experience has demonstrated that the existing tariff provisions applicable to data processing equipment under HTS heading 8471 through 8473 have provided a sound framework for the administration of international trade and the predictable collection of customs duties. The proposed changes to the HTS have not been requested by our

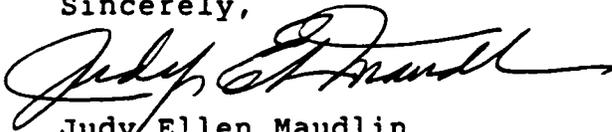
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1. Digital Equipment Corp. v. U.S., 710 F. Supp. 1381 (CIT 1988).
 2. Digital Equipment Corp. v. U.S., 889 F. 2d 267 (Fed. Cir. 1989).
 3. Presidential Proclamation 6310 of June 28, 1991, 56 Fed. Reg. 30303 (1991).
 4. U.S. International Trade Commission, Certain Final Judicial Decisions Relating to Tariff Treatment, (Investigation No. 332-273), USITC Publication 2309, August 1990.

Madam Secretary
Page 3
27 October 1994

industry. We believe that implementation of those changes will result in additional administrative expense, increased paperwork and uncertain tariff status for our products.

We respectfully request that all proposed changes to United States HTS Headings 8471 through 8473, and their respective headnotes be withdrawn from further consideration. We would appreciate an opportunity to meet with appropriate ITC staff to discuss our concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Judy Ellen Maudlin".

Judy Ellen Maudlin
Director of Worldwide Trade

**UNITED STATES
INTERNATIONAL TRADE COMMISSION**

INVESTIGATION No. 1205-3

RE: Tariff Classification of Power Supplies For Automatic Data Processing Machines

Documents:

Section:

Digital Equipment Corporation v. United States,	1
12 CIT 966, 710 F. Supp. 1381 (United States Court of International Trade 1988)	
Digital Equipment Corporation v. United States,	2
889 F.2d 267 (United States Court of Appeals for the Federal Circuit 1989)	
Presidential Proclamation 6310 of June 28, 1991,	3
56 Fed. Reg. 30303 (1991).	

***Prepared By: Digital Equipment Corporation
October 1994***

710 F. Supp. 1381

DIGITAL EQUIPMENT CORP., PLAINTIFF v. UNITED STATES, DEFENDANT

Court No. 85-11-01584

[Judgment for plaintiff.]

Power supply units for computers contained a number of important functions which were not merely incidental to the function of changing AC current to DC current. The classification as "rectifiers or rectifying apparatus" was therefore inadequate and classification should have been as parts of automatic data-processing machines.

quate and classification should have been as parts of automatic data-processing machines.

(Decided October 18, 1988)

Baker & McKenzie (William D. Outman, II and Thomas Peele of counsel), Edward F. Juliano, House Counsel for Digital Equipment Corporation, for plaintiff.

John R. Bolton, Assistant Attorney General, Joseph I. Liebman, Attorney in Charge, International Trade Field Office (Saul Davis, Commercial Litigation Branch) for defendant.

Stephen S. Spraitzar and George R. Tuttle for amicus curiae Astec USA (HK) Ltd.

MEMORANDUM OPINION

WATSON, *Judge*: This case places in issue the tariff classification of merchandise which can be generally described as power supplies for computers. The Customs Service classified this merchandise as "rectifiers and rectifying apparatus" under Item 682.60 of the Tariff Schedules of the United States ("TSUS"). The plaintiff claims that these articles are properly classifiable under a provision which recognizes their use as parts of computers, namely, as "parts of automatic data-processing machines and units thereof" under Item 676.52 (now Item 676.54), TSUS. The resolution of this issue depends on a detailed understanding of the nature and function of the imported merchandise, which for the purpose of this action has been stipulated to be represented by the DEC Model H 7862-C Computer Power Supply. As a result of hearing the expert testimony offered at trial and studying the exhibits, and applying the relevant law to the facts determined, the Court comes to the conclusion that the classification assigned by the government to this merchandise does not adequately describe it by name or function. This conclusion can be best explained by proceeding through the detailed description of the merchandise at issue and relating its operation to that of the computer of which it is a part.

The functions of the imported article can be divided into eight or nine categories. The first is transformation, which in this case involves the conversion of the higher voltage supplied from the outside to a lower voltage. The next function is rectification in its dictionary sense, which is the conversion of alternating current (AC) to direct current (DC). The third function is that of achieving electro-magnetic compatibility. This is the function of controlling the electrical noise generated by the power supply or by the rest of the computer, which, if not controlled, can interfere with the operation of the computer or with the operation of nearby electronic equipment. This function has nothing to do with rectification. The fourth function is the control of the original AC power. This includes an on-off switch and devices for controlling an overload of current. It may also include an input voltage selection switch, for choosing between 110 or 220 AC input voltage. The on-off switch may be considered as incidental to the rectification function, but the protection against overload is an important independent func-

tion designed to protect the computer. The fifth function is energy storage, in which capacitors are used to hold sufficient power to ensure the orderly shutdown of the computer in the event of malfunction. The power is stored, not for immediate power supply needs as an adjunct to rectification, but for the essential needs of the computer in the event of a power disruption. In that case the stored energy will be used to save the information stored in the computer memory. The sixth function is that of protection above and beyond that against an overload of the original AC power. This includes protection against excessive voltage, insufficient current and excessive temperature. The seventh function is that of providing for a monitor/computer interface. This establishes communication with the computer so that if a malfunction occurs on the power side it can direct the computer to stop operations and store data, or if a malfunction occurs within the computer, it can direct a shutdown of the power supply. This goes well beyond rectification. The eighth function is DC to DC power conversion which, in effect, is an additional control of the DC power to the precise tolerances required by modern computers. This is entirely apart from rectification. The ninth device is simply a fan which cools the entire computer system, including the power supply.

In the opinion of the Court the imported merchandise whose functional aspects are summarized above is not encompassed by even the most generous interpretation of the tariff provision for rectifiers and rectifying apparatus. In the opinion of the Court, the classified provision could conceivably describe within the ambit of rectifying apparatus a device which had certain features which were supportive of and subordinate to a rectifier, let us say, transformation and rudimentary control and protection in aid of rectification. But this article contains elements which have an importance of their own *vis-a-vis* a computer, and a role which it would be unreasonable to treat as merely incidental or ancillary to rectification.

It appears to the Court that under the eminently sound reasoning of *Fedtro, Inc. v. United States*, 72 Cust. Ct. 267, CD 4548 (1974), even *one* important function other than those supporting rectification would be sufficient to indicate the inadequacy of the classification. In that action, the Court found that the battery *testing* feature of the importation was highly significant and was not merely incidental or auxiliary to the battery *charging* portion of the importation and therefore the government's classification of the article as "rectifying apparatus" was incorrect. Here we have an abundance of important additional functions which it would be unreasonable to categorize as secondary or incidental.

The government argues that the naming of "rectifying apparatus" in addition to rectifiers means that coverage of more complex devices was intended. The government traces the TSUS provision back to its origin in Heading 85.01 of the 1955 edition of the Brussels Nomenclature and argues that the intention of the Brussels

Nomenclature was to include all forms of devices which were the power supplies of machines, if they were not imported as entireties.

The Court finds it inappropriate to derive so expansive an intent from the use of the 1955 Brussels Nomenclature. The record establishes that those devices which could be generally called power supplies for computers at that time have undergone enormous changes which make the original description in a provision for rectifiers completely inadequate. In fact, the Court is of the opinion that, for purposes of confirming the inadequacy of the term "rectifying apparatus" it is permissible to note that the 1972 edition of the Brussels Nomenclature shows power supplies for computers classifiable as parts of computers under Heading 84.53. The important additional functions performed by these devices, which functions were developed only in the 1960's and 1970's convince the Court that the provision for rectification apparatus, does not adequately or accurately describe these importations. In the opinion of the Court this is a case in which "the integrity of the Tariff Schedules will be far greater preserved if artificial classifications are not rationalized under antiquated schedules neither designed nor intended for present day application." *Texas Instruments, Inc., v. United States*, 82 Cust. Ct. 272, 475 F.Supp. 1183, 1192 (1979); *aff'd* 67 CCPA 57, 620 F.2d 269 (1980).

The expansive scope sought by the government for the term "rectifying apparatus" is also not supported by authoritative reference works such as the *IEEE Standard Dictionary of Electrical And Electronic Terms* (2nd Ed. 1978) or Van Nostrand's *Scientific Encyclopedia* (6th Ed. 1983).

Finally, the Court finds that the record as a whole, including persuasive testimony as to the design and use of these importations supports the conclusion that these importations are parts of computers properly classifiable under Item 676.54 TSUS as parts of data-processing machines. *See generally, Data Products Corp. v. United States*, 4 CIT 234; 558 F.Supp. 124 (1982).

chines rather than as rectifiers and rectifying apparatus were not clearly erroneous. Tariff Schedules, GSP Items 676.52, 682.60.



DIGITAL EQUIPMENT CORPORATION, Plaintiff-Appellee,

v.

**The UNITED STATES,
Defendant-Appellant.**

No. 89-1438.

United States Court of Appeals,
Federal Circuit.

Nov. 14, 1989.

Action was brought challenging classification of merchandise by Customs Service. The Court of International Trade, Watson, J., 710 F.Supp. 1881, entered judgment for plaintiff. Appeal was taken. The Court of Appeals, Cowen, Senior Circuit Judge, held that findings of Court of International Trade that power supplies for computers should have been classified as parts of automatic data-processing machines was not clearly erroneous.

Affirmed.

Bissell, Circuit Judge, filed a dissenting opinion.

1. Customs Duties ¶85(11)

Whether imported item comes with a definition of a classification term is a question of fact.

2. Customs Duties ¶84(7)

Findings of Court of International Trade that power supplies for computers contained a number of important functions that were not merely incidental or ancillary to rectifiers or rectifying apparatus and thus supplies should have been classified as parts of automatic data-processing ma-

William D. Outman, II, Baker & McKenzie, Washington, D.C., argued for plaintiff-appellee. With him on the brief was Thomas Peele. Also on the brief was Edward F. Juliano, Jr., Corporate Customs Atty., Digital Equipment Corp., of counsel.

Saul Davis, Commercial Litigation Branch, Dept. of Justice, New York City, argued for defendant-appellant. With him on the brief were Stuart E. Schiffer, Acting Asst. Atty. Gen., David M. Cohen, Director and Joseph I. Liebman, Atty. in Charge, Intern. Trade Field Office.

Frederick L. Ikenson and Larry Hampel, of Frederick L. Ikenson, P.C., Washington, D.C., were on the brief, for amicus curiae, Zenith Electronics Corp.

Before BISSELL and MICHEL,
Circuit Judges, and COWEN, Senior
Circuit Judge.

COWEN, Senior Circuit Judge.

DECISION

The United States appeals from a decision of the United States Court of International Trade which found that the Customs Service had improperly classified merchandise as "rectifiers and rectifying apparatus" under Item 682.60 of the Tariff Schedules of the United States (TSUS). *Digital Equip. Corp. v. United States*, 710 F.Supp. 1881 (Ct.Int'l Trade 1988). We affirm.

I

BACKGROUND

The subject imported merchandise, which can generally be described as power supplies for computers, has been stipulated for the purpose of this action to be represented by the DEC Model H 7862-C Computer Power Supply.

The Customs Service classified this merchandise as "rectifiers and rectifying appa-

ratus" under Item 682.60 of the TSUS. Schedule 6, part 5 of the TSUS includes:

Generators, motors, motor-generators, converters (rotary or static), transformers, rectifiers and rectifying apparatus, and inductors; all of the foregoing which are electrical goods, and parts thereof:

The appellee contended and the Court of International Trade agreed that these articles are properly classifiable under a provision which recognizes their use as parts of computers, namely, as parts of automatic data-processing machines and units thereof under Item 676.52 (now Item 676.54) of the TSUS. Schedule 6, Part 4, Subpart G of the TSUS encompasses:

Calculating machines; accounting machines, cash registers, postage-franking machines, ticket-issuing machines, and similar machines, all the foregoing incorporating a calculating mechanism:

Parts of automatic data-processing machines and units thereof.

In his opinion, the trial judge described the functions of the imported article in nine detailed categories, and then found that the article contains four "elements which have an importance of their own vis-a-vis a computer, and a role which it would be unreasonable to treat as merely incidental or ancillary to rectification."

The trial judge considered authoritative reference works and found that they did not support the government's interpretation of the term "rectifying apparatus".

Having found that the imported merchandise contained an abundance of important additional functions, the court concluded that the functional aspects of the imported article are not encompassed "by even the most generous interpretation of the tariff provision for rectifiers and rectifying apparatus." Accordingly, the court held that under the "more than" doctrine, TSUS 682.60 is an inadequate and improper classification for the merchandise at issue, and that it should be properly classified under Item 676.52 of the TSUS as parts of computers.

1. See Appellant's Reply Brief at 5-6 n. 7.

II

OPINION

"While the meaning of a classification term is a question of law, the issue of whether particular imported articles come within the definition of a classification term is a question of fact, subject to the clearly erroneous standard of review." *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed.Civ.1989) (citations omitted).

The basic factual issue in this case is whether the imported articles come within the definition of "rectifiers or rectifying apparatus" under Item 682.60 of the TSUS, as the Government contends, or whether the articles come within the definition of parts of computers, i.e., "parts of automatic data processing machines and items thereof" under Item 657.52 as the appellee contends. On this factual issue, there was conflicting testimony by the parties' expert witnesses and the trial judge resolved the conflict in favor of the appellee.

[1] The Government has not attempted to establish and has not established that the trial court's findings of fact are clearly erroneous.¹ Instead, the Government contends that the issue involved in this case is a question of law on which the Government is entitled to a *de novo* review. In support of this position the Government relies on *Hasbro Indus. Inc. v. United States*, 879 F.2d 838 (Fed.Civ.1989). However, in that case we also held, as we had held in *Simod Am.*, that whether an item comes within the definition of a classification term is a question of fact. *Hasbro Indus.*, 879 F.2d at 840.

The courts have uniformly held that merchandise which constitutes more than a particular article or which has additional nonsubordinate or coequal functions is not classifiable as that article. See, e.g., *United States v. Flex Truck Equip. Ltd.*, 59 CCPA 97, 458 F.2d 148 (1972); *E. Green & Son v. United States*, 59 CCPA 81, 460 F.2d 1896 (1971); *Servo-Tek Prods. Co. v. United States*, 57 CCPA 18, 416 F.2d 1898 (1969).

[2] As stated, *supra*, the trial judge made the factual findings that the imported merchandise has four additional functions which are not incidental or ancillary to "rectifiers or rectifying apparatus". The Government has made no effort to show that these findings are clearly erroneous, and since we find that there are two permissible views of the evidence in this case, we cannot find that the trial court's findings of fact are clearly erroneous, whether the findings are based on credibility determinations, on documentary evidence, or on inferences from other facts. *Anderson v. Bessemer City*, 470 U.S. 564, 574, 105 S.Ct. 1504, 1511, 84 L.Ed.2d 518 (1985).

Consequently, we hold that the trial judge correctly concluded, as a matter of law, that the articles in issue should have been classified by the Customs Service in TSUS 676.52 as "parts of automatic data processing machines or parts thereof."

Fedtro, Inc. v. United States, 376 F.Supp. 1898 (Cust.Ct.1974) involved the same provision, which is in dispute here, Item 682.60 of the TSUS. The imported article in that case consisted of a multi-purpose deluxe battery charger with a silicon diode, which was designed to perform two functions: (1) to recharge dry cell batteries and (2) to test the degree of charge on 1.5 volt batteries. There, as here, the government argued that the testing function was incidental or auxiliary and therefore, that the article was properly classifiable as a "rectifying apparatus". The scope and meaning of the term "rectifying apparatus" in Item 682.60 were examined in depth by the Court, which relied on several sources including the Brussels Nomenclature of 1955. The court disagreed with the government's contention, finding that the testing light structure and its circuitry added a function which was significantly different from the rectifying function. Therefore, the court held that the merchandise was more than a rectifying apparatus.

Similarly, in an analogous decision by the Court of Customs and Patent Appeals, *Fedtro, Inc. v. United States*, 59 CCPA 16, 449 F.2d 1895 (1971), the court, applying the "more than doctrine", found that the mer-

chandise in that case performed a significantly different function than the article described in the classification relied upon by the Customs Service.

We emphasize the fact that the imported device in issue here contains more significantly different functions than the devices in either of the Fedtro cases.

CONCLUSION

We agree with the findings of the trial court. These findings are not disputed by the Government and, in our opinion, are dispositive of the issue presented in this appeal. We also agree with the conclusions in the well-reasoned opinion of Judge Watson. Accordingly, the decision of the Court of International Trade, which held that the merchandise should be classified under Item 676.52 of the TSUS, is

AFFIRMED.

BISSELL, Circuit Judge, dissenting.

I respectfully dissent because the majority has mischaracterized the issue. The issue is not the factual question of whether these particular imports fit within the classification term "rectifying apparatus." The issue instead is the legal question of whether the judge properly defined the term "rectifying apparatus."

First, Digital Equipment Corporation does not dispute that its imported items are computer power supplies, albeit more sophisticated and complex than those available in 1962 when the pertinent TSUS provisions were enacted. Second, based on a review of the 1955 Brussels Nomenclature, technical lexicons and dictionaries, and testimony from both the government's and importer's experts, the trial judge determined that the term "rectifying apparatus" in Item 682.60 allows for functions in addition to rectification. Additionally, it is my view that, at the time Congress enacted the 1962 TSUS, it intended the term to encompass "power supplies," including power supplies for computers. Accordingly, the trial judge erred as a matter of law by defining "rectifying apparatus" to exclude

certain modern computer power supplies solely on the basis of complexity. Tariff schedules are not frequently revised and of necessity are drafted to accommodate technological advancements. There is nothing in the 1962 TSUS or its legislative history that warrants limiting the definition of "rectifying apparatus" to power supplies of

a particular complexity or era. Therefore, I would reverse.



Presidential Documents

Proclamation 6310 of June 28, 1991

To Make Changes to the Harmonized Tariff Schedule of the United States

By the President of the United States of America

A Proclamation

1. Section 1211(d)(2) of the Omnibus Trade and Competitiveness Act of 1988 ("1988 Act") (19 U.S.C. 3011(d)(2)) requires the United States International Trade Commission ("Commission") to recommend to the President and to the Congress those changes to the Harmonized Tariff Schedule of the United States (HTS) that the Commission would have recommended if certain final judicial decisions published during the 2-year period beginning on February 1, 1988, would have affected tariff treatment if the final decisions had been made before the conversion into the format of the International Convention on the Harmonized Commodity Description and Coding System, June 14, 1983, and the Protocol thereto, June 24, 1986. Section 1211(d)(3) of the 1988 Act (19 U.S.C. 3011(d)(3)) directs the President to review the recommended changes and to proclaim those changes, if any, which he decides are necessary or appropriate to conform the HTS to the pertinent final judicial decisions. This section further provides that any changes proclaimed by the President shall be effective both for entries made on or after the date of the proclamation and for entries made between January 1, 1989, and the date of the proclamation, upon request by the importer for liquidation or reliquidation thereof within 180 days after the effective date of the proclamation.

2. Pursuant to section 1211(d) of the 1988 Act, on September 1, 1990, the Commission reported its recommendations for changes to the HTS to the President in its report on Investigation No. 332-273 (USITC Publication No. 2309, August 1990). After reviewing all of the changes recommended by the Commission, I have decided that all such changes are necessary or appropriate in order to conform the HTS to the decisions identified in the Commission's report.

3. Section 604 of the Trade Act of 1974, as amended ("1974 Act") (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the provisions of that Act, of other acts affecting import treatment, and actions thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and laws of the United States, including but not limited to section 604 of the 1974 Act and section 1211(d) of the 1988 Act, do proclaim that:

(1) In order to conform the HTS to certain final judicial decisions, the HTS is modified as set forth in Annex I to this proclamation.

(2) In order to provide for the continuation of previously proclaimed staged reductions on Canadian goods in the HTS provisions modified in Annex I to this proclamation, effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates specified in Annex II to this proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1 Special subcolumn followed by the symbol "CA" in parentheses for each of the HTS subheadings enumerated in Annex II shall be deleted and the rate of duty provided in Annex II inserted in lieu thereof on the dates specified.

(3) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

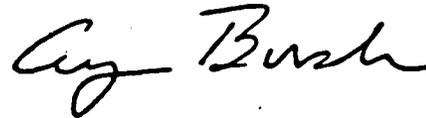
(4)(a) The modifications made by paragraph (1) of this proclamation shall be effective with respect to:

(i) entries made on or after the date of signature of this proclamation, and

(ii) entries made on or after January 1, 1989, if application for liquidation or reliquidation thereof is made by the importer to the United States Customs Service within 180 days after the date of signature of this proclamation.

(b) The modifications made by paragraph (2) of this proclamation shall be effective with respect to goods originating in the territory of Canada entered, or withdrawn from warehouse for consumption, on or after the dates indicated in the respective columns for such goods in Annex II to this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of June, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and fifteenth.



Billing code 3185-01-M

ANNEX I

Notes

1. Bracketed matter is included to assist in the understanding of proclaimed modifications.

2. The following supersedes matter now in the Harmonized Tariff Schedule of the United States (HTS). The subheadings and superior descriptions are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1 General", "Rates of Duty 1 Special", and "Rates of Duty 2", respectively.

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of signature of this proclamation, and to entries of such articles made on or after January 1, 1989, if application for liquidation or reliquidation thereof is made by the importer within 180 days of the date of this proclamation:

(a) Subheading 8471.99.30 is superseded by:

	[Automatic...:]			
	[Other:]			
	[Other:]			
	"Power supplies:			
8471.99.32	Units suitable for physical incorporation into automatic data processing machines or units thereof.....	Free		35%
8471.99.34	Other.....	3%	Free (A*,CA,E,IL)	35%"

Conforming change: General note 3(c)(ii)(D) to the HTS is modified by striking out "8471.99.30 Mexico" and by inserting in lieu thereof "8471.99.34 Mexico".

(b) Subheading 9027.20.40 is superseded by:

	[Instruments...:]			
	[Chromatographs...:]			
	"Electrical:			
9027.20.42	Electrophoresis instruments not incorporating an optical or other measuring device.....	3.9%	Free (A,E,IL) [See Annex II] (CA)	40%
9027.20.44	Other.....	4.9%	Free (A,E,IL) [See Annex II] (CA)	40%"

(c) Subheading 9027.90.40 is superseded by:

	[Instruments...:]			
	[Microtomes;...:]			
	[Parts...:]			
	"Of electrical instruments and apparatus:			
9027.90.42	Of electrophoresis instruments not incorporating an optical or other measuring device.....	3.9%	Free (A,E,IL) [See Annex II] (CA)	40%
9027.90.44	Other.....	4.9%	Free (A,E,IL) [See Annex II] (CA)	40%"



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October 28, 1994

Donna R. Koehnke
Secretary
United States International Trade Commission
500 E Street, SW
Washington, DC 20436

Re: Proposed Modifications to the Harmonized Tariff Schedules of the United States Pursuant to Section 1205 of the Omnibus Trade Competitiveness Act of 1988 (Addendum)

Dear Secretary Koehnke:

AT&T Corp. (AT&T) respectfully submits the following comments on International Trade Commission Investigation No. 1205-3, *Proposed Modifications to the Harmonized Tariff Schedules of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (Addendum)*. Our comments pertain to proposals to change the tariff treatment currently accorded computer power supplies.

The Commission's Notice in the *Federal Register* of September 21st (59 Fed. Reg., 48449) mentioned for the first time a substantial change in the tariff treatment of power supplies for automatic data processing machines. We have reviewed the text of the proposed change in the (as yet unpublished) *Draft Addendum to the Report on Investigation No. 1205-3*. AT&T opposes the proposed change because it will create ambiguity in the classification of computer power supplies and may result in the computer power supplies which are currently duty-free being classified in a dutiable provision.

The current tariff provision covering power supplies for automatic data processing machines and units thereof (HTS 8471.99.32) was the result of Presidential Proclamation

6310 of June 28, 1991 (56 Fed. Reg., 30303). The purpose of that Presidential Proclamation was to conform the HTS to decisions of the Court of International Trade and Court of Appeals for the Federal Circuit.¹ The Commission itself had previously documented the long and torturous history of litigation leading up to that Presidential Proclamation in its Report on Investigation No. 332-273. The Commission's report noted the broad-based support by the information processing industry for the creation of an unambiguous provision for computer power supplies. NCR Corp., now AT&T Global Information Solutions, was one of a number of companies noted in the Report as supporting such a provision. As a result of the court decisions, Commission report, and most importantly, the Presidential Proclamation, the industry has benefited from an unambiguous duty-free classification for computer power supplies. We are concerned that the Commission is now prepared to disregard the clearly documented industry position on this issue.

The changes proposed by the ITC are inconsistent with the interest of the industry. The proposed classification of some power supplies for automatic data processing machines under a new heading (HTS 8504.40.60) is also inconsistent with the court decisions regarding the classification of computer power supplies and is inconsistent with AT&T's technical understanding of what constitutes a "power supply" for the wide variety of computer equipment which we manufacture, sell and service.

The proposed deletion of the language "and units thereof" from the description of computer power supplies could have the unintended result of moving currently duty-free articles into a dutiable provision. The current language covers "power supplies suitable for physical incorporation into automatic data processing machines of heading 8471 and units thereof. (emphasis added). It is unclear under the proposed changes where power supplies for units of ADP machines will be classified.

¹*Digital Equipment Corp. v. U.S.*, 710 F.Supp. 1381 (CIT); *affirmed* 889 F.2d. 267 (Fed. Cir. 1989)

In addition, we now note that the changes proposed to the Headnotes to Chapter 84 deleted the reference to "Power Supplies." That proposed change was originally published by the Commission last year (*Proposed Modifications to the Harmonized Tariff Schedule of the United States*, Investigation No. 1205-3, USITC Publication 2673, August 1993). It is only now apparent, however, that the change to the Headnote will have the unanticipated effect of significantly changing the tariff treatment for power supplies. We disagree with the proposed change to the Headnote and request that the Headnotes to Chapter 84 be maintained in their current condition.

Power supply assemblies are an important basic building block found in virtually all computer hardware products. The proposed tariff treatment will introduce substantial and unnecessary uncertainty as to the future tariff treatment of those assemblies. We respectfully request that the current tariff treatment for power supplies suitable for physical incorporation into automatic data processing machines or units thereof and the applicable Headnotes to Chapter 84 remain unchanged.

We are prepared to submit more detailed discussion of the issues identified above, or to meet with you to further discuss this matter at your convenience.

Sincerely,



Christopher A. Padilla
Director
Federal Government Affairs

U.S.I.T.C. Report #2831 was published as the 1995
Harmonized Tariff Schedule of the United States. This
can be found at call # 6653/I61a.

