

*What Every Member of the  
Trade Community Should Know About:*

# **Household Articles of Base Metal**



**AN INFORMED COMPLIANCE PUBLICATION**

**AUGUST 2005**

**U.S. CUSTOMS and BORDER PROTECTION**

**NOTICE:**

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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## PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record’s failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings (ORR) has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications, on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the National Commodity Specialist Division, ORR, is a study in the classification of household articles. “Household Articles of Base Metal” provides guidance regarding the classification of imported merchandise. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed Customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

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## **HOUSEHOLD ARTICLES OF BASE METAL**

### **INTRODUCTION**

This Informed Compliance Publication seeks to clarify the tariff classification of certain household articles. Household articles are classified in Section XV, HTS, most commonly in Chapter 73 (household articles of iron or steel), Chapter 74 (household articles of copper), Chapter 76 (household articles of aluminum), Chapter 79 (household articles of zinc) and Chapter 80 (household articles of tin). The other chapters do not have breakouts specifically for household articles.

All of the articles classifiable in the household headings are utilitarian, rather than merely decorative. They are of a class or kind of goods that may be used in the home or “in hotels, restaurants, boarding houses, hospitals, canteens, barracks, etc.” However, the headings do not include articles carried on the person, such as flasks and metal handbags.

Classification under a provision for household articles of base metal presumes that the article is not more specifically provided for elsewhere in the HTS. In fact, most common household articles are provided for more specifically in other headings of the HTS. For example, household hand tools, such as bottle openers, cheese graters, whisks, vegetable mashers, *et al.*, are classifiable in heading 8205, HTS. The countertop or tabletop versions with a base, and other simple household mechanical appliances such as coffee mills and eggbeaters, are usually classified in heading 8210, HTS. All cutlery and flatware, such as knives, forks, and spoons, are classifiable in headings 8211, HTS, and 8215, HTS. Hardware is classifiable in heading 8302, HTS and lighting fittings in heading 9405, HTS. Vacuum flasks are provided for in heading 9617, HTS.

All of the rulings quoted in this paper have been extracted, condensed, and in some cases, the wording has been altered. We do not recommend relying on the extract without reading the entire ruling.

### **WHAT ARE TABLE, KITCHEN, COOKING, OTHER HOUSEHOLD, SANITARY WARES AND NON-ELECTRIC HEATING APPLIANCES?**

- a) Tableware includes articles that are used on the table for the serving and the eating of food. It includes trays, dishes, chargers, coffee and teapots, napkin rings and tablecloth clips. As previously mentioned, it does not include flatware.
- b) Kitchenware includes articles that are used in the kitchen for the preparation or storage of food or beverages. These articles include cooking vessels, such as pots and pans, kitchen storage canisters for food and beverage, colanders, measuring cups, funnels, and plate racks. Kitchenware consists of vessels used in food preparation where heat is not applied to the vessel, for example, a mixing bowl. Cookware consists of vessels intended to be placed directly on the range, or in the oven, to have food cooked therein by heat. It includes pots, pans, casseroles,

kettles, and Dutch ovens. For statistical reporting purposes, these headings require the number of pieces. When cookware or kitchenware is imported in sets, the number of pieces should be reported, counting every item in the set. A set containing four pots and three lids, for example, would be reported as "7" pieces.

- c) Other Household Articles include articles of base metal used in and around the house that are not provided for elsewhere. Therefore, correctly classifying a household article requires eliminating every other possible classification in the HTS. Most goods are classified by application of GRI 1, which states, in part, that for legal purposes classification shall be determined according to the terms of the headings and any other relative section or chapter notes. Where goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's will be applied in order. Because of this, it is not possible to provide a definitive rule to the classification of household articles.

Other household articles include ashtrays, watering cans, baskets, and garbage cans (dustbins).

In HQ 959513 of June 16, 1997, on the classification of CD racks, CBP discusses the nature of "household articles" and determines that heading 7323 is a "use" provision, stating:

The subject articles will thus fall under heading 7323 if they belong to the class or kind of articles principally used in the home. The Court has established various factors, which are indicative but not conclusive, to apply when determining principal use within a particular class or kind. They include:

general physical characteristics, the expectation of the ultimate purchaser, channels of trade, environment of sale (accompanying accessories, manner of advertisement and display), use in the same manner as merchandise which defines the class, economic practicality of so using the import, and recognition in the trade of this use...In this instance, these factors are helpful in determining whether the CD racks are intended for home use. The CD racks are made to hold CDs. They are packaged and sold in a box displaying a CD rack on a shelf of a wall unit along with books, a candle, and what appears to be a stereo or video component. They are sold by a retailer directly to the consumer as a (sic) merchandise which would organize a collection of CDs. The consumer will generally be expected to store such articles within the home. The evidence presented indicates that the CD racks are principally used in the home and that it would be impracticable to give them a different use. We therefore find that, since the CD racks will be used for household purposes, they are classifiable under subheading 7323.99.9060, as other household articles of iron or steel. [See also *United States v. Carborundum Company*, 63 C.C.P.A. 98, C.A.D. 1172, 536 F.2d 373 (1976), cert. denied, 429

U.S.979.]

- d) Sanitary ware includes certain fixtures used to cleanse the body, such as sinks and baths and certain vessels used for the removal of waste, such as bedpans. It includes other items used exclusively in the bathroom, such as toilet paper holders and soap dishes. It does not include items provided for elsewhere, such as faucets.
- e) Non-electric cooking and heating appliances include gas cookers, barbecues, hibachis, camping stoves and space heaters that use a source of heat other than electricity.

In HQ 951941 of August 18, 1992, on the classification of wickless, vented kerosene heaters, CBP rules:

EN 73.21, pg. 1032, states that Heading 7321, HTSUS, "covers a group of appliances which meet all of the following requirements:

(i) be designed for the production and utilization of heat for space heating, cooking or boiling purposes; (ii) use solid, liquid or gaseous fuel, [or other source of energy (e.g., solar energy)]; (iii) be normally used in the household or for camping." The protestant argues that the kerosene heaters fail to meet requirement (ii) because they use electricity. This argument is not persuasive. Requirement (ii) refers to the appliance's source of heat, not whether the appliance uses electricity to control subsidiary components, such as, an ignitor, sensor or pump. Thus, if the heaters in question used electricity for heating purposes, they would be excluded from Heading 7321, HTSUS. However, the heaters' sole source of heat is kerosene, and they are, therefore, classifiable under this heading, specifically under subheading 7321.82.10, HTSUS.

## **DECORATIVE VS. UTILITARIAN ARTICLES**

Many household articles are decorated and attractive to the eye. However, utilitarian articles, even if highly ornamented, remain classified in the household headings.

In HQ 089258 of December 23, 1991, CBP points out that the Explanatory Notes to Heading 8306, which discuss statuettes and other ornaments of base metal, provide the following:

This group comprises a wide range of ornaments of base metal (whether or not incorporating subsidiary non-metallic parts) of a kind designed essentially for decoration, e.g., in homes, offices, assembly rooms, [places of religious worship], gardens.

The group also includes, in the circumstances explained below, certain goods of the two following categories even though they have a utility

value:

(A) Household or domestic articles whether they are potentially covered by specific headings for such goods (i.e., headings 73.23, 74.18 and 76.16) or by the "other articles" headings (e.g., in the case of articles of nickel and tin in particular). These household or domestic articles are generally designed essentially to serve useful purposes, and any decoration is usually secondary so as not to impair the usefulness. If, therefore, such decorated articles serve a useful purpose no less efficiently than their plainer counterparts, they are classified as domestic goods rather than in this group. On the other hand, if the usefulness of the article is clearly subordinate to its ornamental or fancy character, it should be classified in this group, for example, trays so heavily embossed that their usefulness is virtually nullified; ornaments incorporating a purely incidental tray or container usable as a trinket dish or ash-tray; and miniatures having no genuine utility value (miniature kitchen utensils).

In HQ 955040 of January 28, 1994, on the classification of bud vases, CBP rules that the only usefulness for the vases is to contain or support other decorative articles, namely, flowers. Therefore, the vases are classifiable in heading 8306, HTSUS.

## WHAT IS A BASE METAL?

Section XV, Note 3. defines "base metals" under the HTS. It reads:

Throughout the schedule, 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.

This definition applies throughout the entire HTS and supercedes any other scientific or commercial definition. Note that the definition includes such semi-metals as antimony, and excludes other elements sometimes considered metals, such as arsenic.

In contrast, precious metals include only silver, gold and platinum (platinum, iridium, osmium, palladium, rhodium and ruthenium). Section XIV, Chapter 71, Note 4. An alloy containing precious metal is an alloy of that precious metal if it constitutes 2% or more of the weight. Section XIV, Chapter 71, Note 5.

The five most important base metals for household purposes are iron or steel, aluminum, copper, tin and zinc. Base metals include alloys of the metal and intermetallic compounds, but do not include chemical compounds. In other words, a metal/metal compound, such as CuZn is included, but not a non-metal/metal compound,

such as barium ferrite. Intermetallic compounds are not relevant to household articles, but articles made of ferrite have caused some confusion. Ferrite is used in some household articles, particularly when magnetized. Magnets, however, are provided for in heading 8505, HTS, whether household or not.

## THE HEADINGS

Breakouts for household articles appear under the headings for iron and steel, copper, aluminum, zinc and tin. Chapter 73, covering household articles of iron or steel, contains separate headings for stoves and similar non-electric domestic appliances (heading 7321), table, kitchen or other household articles (heading 7323) and sanitary ware (heading 7324). Chapter 74, covering household articles of copper, has a heading for cooking or heating apparatus of a kind used for domestic purposes, non-electric (heading 7417) and one heading for table, kitchen or other household articles and sanitary ware (heading 7418). Chapter 76, covering household articles of aluminum, combines all of these articles into one heading for table, kitchen and other household articles (heading 7615). Chapter 79, covering household articles of zinc, and Chapter 80, covering household articles of tin, combine these articles into single headings, heading 7907 (other articles of zinc) and heading 8007, other articles of tin. All of these headings are cross-referenced to each other in the Explanatory Notes.

## Chapter 73 – Household Articles of Iron or Steel

Unless the context requires otherwise, iron and steel are considered the same metal for tariff purposes. Iron is an abundant element and iron and steel the most widely used metals. A very important source of iron is Hematite ( $\text{Fe}_2\text{O}_3$ ). The metal rusts easily, and may be plated for protection, e.g., by galvanization. Section XV, Note 7(a) states “iron and steel, or different kinds of iron or steel, are regarded as one and the same metal.” The different types of iron and steel are defined in the Notes to Section XV, Chapter 72. Ordinarily, iron and steel attract a magnet, but some alloys, certain stainless steels among them, do not. Pure nickel will also attract a magnet, but expensive nickel is not used in household articles except as an alloying element.

**7321** Stoves, ranges, grates, cookers (including those with subsidiary boilers for central heating), barbecues, braziers, gas rings, plate warmers and similar nonelectric domestic appliances, and parts thereof, of iron or steel:

Cooking appliances and plate warmers:

7321.11                      For gas fuel or for both gas and other fuels:  
7321.11.10                      Portable

Other:

7321.11.30                      Stoves or ranges



is also obtainable from petroleum sources. Liquefied propane is marketed as a fuel for outlying areas where other fuels may not be readily available and for portable cook stoves.... Propane and other liquefied gases are clean and appropriate for most heating purposes....” Hawley’s Condensed Chemical Dictionary (12th ed., 1993) defines “propane” in pertinent part as follows: “...Properties: Colorless gas, natural-gas odor...an asphyxiant gas.... Derivation: From petroleum and natural gas.” The Random House Dictionary of the English Language (unabridged ed., 1973) defines propane as follows: “a colorless, flammable gas [symbol omitted] of the alkane series, occurring in petroleum and natural gas: used chiefly as a fuel and in organic synthesis. Also called dimethylmethane.”

The question of whether the articles are portable is resolved using both dictionary definitions and trade definitions:

“Portable” is not defined in the statute. In the absence of definitions in the statute, the courts have referred to other sources, including dictionary definitions.... While the subject grills can be moved, via their wheels, from place to place on one’s patio or lawn, because of their size and weight, they are not “easily carried or conveyed by hand” or “capable of being carried by hand or on the person.” The definitions do not resolve the issue in that the subject barbecue grills are “capable of being moved from place to place,” but are not “capable of being carried by hand or on the person.”

In *F.W. Myers, Inc. v. United States*, 12 CIT 566, 571 (1988), where the court found that dictionary and encyclopedia sources did not resolve its inquiry, it stated:

When a word has both broad and narrow common meaning, it is proper to refer to the legislative history, administrative practice, sections related to those in which the term appeared, and other “external aids.” [cit. omitted]

The ruling then notes definitions of portable electric lamps in EN 85.13 and a letter dated November 16, 2001, from a spokesperson for the Barbecue Industry Association stating, in essence, that these grills are not the type that are considered by the industry to be portable grills. The letter states that the grills are for relatively fixed patio use and too big and heavy to be marketed as portable. Grills that the trade considers portable are designed to take along for tailgating, the beach or other away-from-home activities. Portables have few features other than a simple cooking grid, smaller than that of a typical backyard grill. The letter states the following about the grills:

This letter is consistent with our belief that barbecue grills of the size and weight of the subject grills are generally not marketed as “portable.”.... After a careful consideration of the portability issue, we conclude that the subject barbecue grills are not portable grills. As stated above, they are not “easily carried or conveyed by hand.” Further, we believe that the

subject barbecue grills are not of the class or kind of article normally considered as portable. We believe that barbecue grills of the size of the current grills are generally not marketed as portable.

Therefore, we find that they are classified in subheading 7321.11.60, HTSUS, as: "Stoves, ranges...barbecues...and similar nonelectric domestic appliances, and parts thereof, of iron or steel: Cooking appliances and plate warmers: For gas fuel or for both gas and other fuels: ...Other: Other."

**7323** Table, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel:

7323.10.00 Iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like

Other:

7323.91 Of cast iron, not enameled:

7323.91.10 Coated or plated with precious metal

7323.91.50 Other

7323.92.00 Of cast iron, enameled

7323.93.00 Of stainless steel

7323.94.00 Of iron (other than cast iron) or steel, enameled

7323.99 Other:

Coated or plated with precious metal:

7323.99.10 Coated or plated with silver

7323.99.30 Other

Not coated or plated with precious metal:

7323.99.50 Of tinplate

Other:

7323.99.70 Cookingware

7323.99.90 Other

It should be noted that heading 7323 includes only parts of iron or steel.

## Enamel, Enameled, Enamelled, Vitrified enamel, Vitreous glasses, Porcelain

Enamel is a coating of vitrifiable enamel, fused on a metal base creating a glass-like surface. The enamel contains silica, which, when vitrified under intense heat, turns into a tough, shiny surface of porcelain. Unlike enamel paint, porcelain cannot be peeled off the surface of cookware with a knife. Porcelain does not scratch easily, but chips when struck. If the question of whether a surface is enamel or porcelain arises, a sample must be sent to the laboratory for verification.

Cloisonné is a technique of enameling. With cloisonné, strips of gold are attached to the metal base to form separate cloisons, or cells, into which different colored enamel is placed. Cloisonné is a process, not an article. Cloisonné articles are classified according to what they are. They are frequently utilitarian items, rather than merely decorative.

Coated or plated - Electroplating is the deposition of a metallic coating onto an object by putting a negative charge onto the object and immersing it into a solution of positively charged ions of the metal to be deposited.

**7324** Sanitary ware and parts thereof, of iron or steel:

7324.10.00 00 Sinks and wash basins, of stainless steel

Baths:

7324.21 Of cast iron, whether or not enameled:

7324.21.10 00 Coated or plated with precious metal

7324.21.50 00 Other

7324.29.00 00 Other

7324.90.00 00 Other, including parts

## Chapter 74 – Household Articles of Copper

Malachite [Cu<sub>2</sub>(CO<sub>3</sub>)(OH)<sub>2</sub>] is one of the most important ores of copper. Copper is a good conductor of heat and so is used on finer cookware, which must be lined with tin to avoid poisoning the food. Copper alloys are brass and bronze.

**7418** Table, kitchen or other household articles and parts thereof, of copper; pot scourers and scouring or polishing pads, gloves and the like, of copper; sanitary ware and parts thereof, of copper:

Table, kitchen or other household articles and parts thereof; pot scourers and scouring or polishing pads, gloves and the like:

7418.11 Pot scourers and scouring or polishing pads, gloves and the like:

7418.11.20 Of copper-zinc base alloys (brass)

|            |                                       |
|------------|---------------------------------------|
| 7418.11.40 | Other                                 |
| 7418.19    | Other:                                |
| 7418.19.10 | Coated or plated with precious metals |
|            | Other:                                |
| 7418.19.20 | Of copper-zinc base alloys (brass)    |
| 7418.19.50 | Other                                 |
| 7418.20    | Sanitary ware and parts thereof:      |
| 7418.20.10 | Of copper-zinc base alloys (brass)    |
| 7418.20.50 | Other                                 |

## Chapter 76 – Household Articles of Aluminum

Aluminum is abundant in nature, but never found in its free form. Bauxite, the ore of aluminum, is processed into the pure metal. Aluminum may be cast, stamped or spun. Anodized aluminum has an oxidized surface. This surface has a gray, *faux-pewter* color.

|               |   |
|---------------|---|
| <b>7615</b>   | Table, kitchen or other household articles and parts thereof, of aluminum; pot scourers and scouring or polishing pads, gloves and the like, of aluminum; sanitary ware and parts thereof, of aluminum: |
|               | Table, kitchen or other household articles and parts thereof; pot scourers and scouring or polishing pads, gloves and the like:   |
| 7615.11.00 00 | Pot scourers and scouring or polishing pads, gloves and the like:   |
| 7615.19       | Other:  |
|               | Cooking and kitchen ware:   |
|               | Enameled or glazed or containing nonstick interior finishes:  |
| 7615.19.10    | Cast  |
| 7615.19.30    | Other   |
|               | Not enameled or glazed and not containing nonstick interior finishes:   |
| 7615.19.50    | Cast  |
| 7615.19.70    | Other   |
| 7615.19.90 00 | Other   |
| 7615.20.00 00 | Sanitary ware and parts thereof   |

## Chapter 79 – Household Articles of Zinc

Sphalerite or blende (ZnFeS) is the major mineral source of zinc. Plating thin layers of zinc on to iron or steel is known as galvanizing and helps to protect the iron from corrosion.

7907.00 Other articles of zinc:  
7907.00.10 Articles of a type used for household, table or kitchen use; toilet and sanitary wares; all the foregoing and parts thereof of zinc

## Chapter 80 – Household Articles of Tin

Cassiterite (SnO<sub>2</sub>) is the major mineral source of tin. Its alloy, pewter, is frequently used to make collectibles. It is also used as a protective, non-reactive coating for steel sheet. Tin is the most expensive base metal.

Tin is used frequently as a misnomer for steel. Articles classifiable in Chapter 80, "Tin and articles thereof" may only be made of tin, Sn (*stannum*, atomic number 50) and its alloys. Tinplate, usually called "tin" in ruling requests, is low carbon mild steel sheet electrolytically coated with tin. Tinplate is not classifiable in Chapter 80. In addition, some articles described in ruling requests as "tin" are not even tinplate, but unplated steel sheet. This misdescription is the single most frequent cause of delay in issuing a ruling for household articles.

Pewter is a hard, metal alloy composed primarily of tin with varying amounts of lead, copper, antimony, and bismuth. Pewter used to make drinking vessels and other food related wares must have no lead. Modern pewter is usually over 90% tin with antimony and copper alloying elements. Unfortunately, some items described in ruling requests as pewter are only anodized gray metals, causing a delay.

8007.00 Other articles of tin:  
8007.00.10 Articles not elsewhere specified or included of a type used for household, table or kitchen use; toilet and sanitary wares; all the foregoing not coated or plated with precious metal

8007.00.50 Other

## CLASSIFICATION OF ALLOYS

The various base metal headings include alloys of those metals. For example, headings covering copper include brass and bronze and headings for zinc include zamac.

Section XV, Note 5. Classification of alloys (other than ferroalloys and master alloys as defined in chapters 72 and 74):

- (a) An alloy of base metals is to be classified as an alloy of the metal which predominates by weight over each of the other metals.
- (b) An alloy composed of base metals of this section and of elements not falling within this section is to be treated as an alloy of base metals of this section if the total weight of such metals equals or exceeds the total weight of the other elements present.
- (c) In this section the term "alloys" includes sintered mixtures of metal powders, heterogeneous intimate mixtures obtained by melting (other than cermets) and intermetallic compounds.

Section XV, Note 6. Unless the context otherwise requires, any reference in the tariff schedule to a base metal includes a reference to alloys which, by virtue of note 5 above, are to be classified as alloys of that metal.

## **CLASSIFICATION OF COMPOSITE ARTICLES**

### **Metal/Metal Articles**

When comparing an article made of two different metals, there is no determination of essential character. Principal weight is the sole determining factor.

**Section XV, Note 7.** Classification of composite articles:

Except where the headings otherwise require, articles of base metal (including articles of mixed materials treated as articles of base metal under the General Rules of Interpretation) containing two or more base metals are to be treated as articles of the base metal predominating by weight over each of the other metals. For this purpose:

- (a) Iron and steel, or different kinds of iron or steel, are regarded as one and the same metal;
- (b) An alloy is regarded as being entirely composed of that metal as an alloy of which, by virtue of note 5, it is classified.

In HQ 950935 of April 22, 1992, a ruling on the classification of a gas grill made of steel and aluminum, CBP states:

The articles in question are gas grills which consist of the following components: (1) an aluminum top and bottom; (2) steel legs, base, grill support, control panel, and shelf arms (several of the models also contain one or more of the following steel components: condiment rack; heat shield shelf brackets, side burner housing, side burner cover, side burner bowl/drip shield and side burner burner/venturi); and (3) additional non-

metal components, which include wheels, window, heat indicator, handles, control knobs, casters, etc.

The essential character determination that the EN to Section XV, Note 5, [now Note 7] refers to is that between the base metal components (aluminum and steel) versus the non-metal components, not base metal (aluminum) versus base metal (steel). Clearly, the essential character of the gas grills is represented by the base metal components. Thus, according to Note 5 [Now Note 7] to Section XV, the grills will be treated as an article of the base metal which predominates by weight over the other base metal. . . .

The base metal that predominates by weight in all of the gas grill models is "steel." Thus, according to GRI 1 (it is unnecessary to resort to GRI 3) and Note 5 [now Note 7] to Section XV, they will be treated as "articles of steel" for tariff purposes. The gas grills are classifiable under Heading 7321, HTSUS, which describes stoves, ranges, cookers, and barbecues of iron or steel.

## **Glass/Metal Articles**

For a complete discussion of the classification of glass/metal articles, see Informed Compliance Publication New Decisions on Candle Holders v. Decorative Articles, revised January, 2004 and Informed Compliance Publication Lamps, Lighting and Candle Holders, revised March 2004 and Informed Compliance Publication, Table and Kitchen Glassware, revised January 2004. The following rulings illustrate many of the issues to be considered when comparing glass to metal. The same principles may be applied to metal/plastic, metal/wood, etc.:

- A) In HQ 964776 of December 19, 2001, on the classification of napkin rings, CBP explains that since napkin rings consisting partly of glass and partly of brass are a composite good, we must apply GRI 3(b):

Under GRI 3(b), the essential character of glass jars with metal lids, glass boxes, plates or suncatchers with metal frames or edges, table and kitchen glassware on metal racks, stands or bases, and the like, is imparted by the glass component. . . . [T]he "metal component is ancillary and merely serves to support the glass component." Informed Compliance Publication, Decorative Glassware, revised January 2004.

The glass component comprises the majority of the bulk and weight of a glass and metal article, and often has the greater consumer appeal. More importantly, the glass serves the predominant function of the article. For example, if the glass component of a glass box with a metal frame is removed, the metal frame alone is not a box. Similarly, a glass vessel on a metal stand has the essential character of glass, and is thus classified as

such, because the glass vessel performs the article's function of holding....

Napkin rings are utilitarian articles whose essential character is determined, in part, by the component that fulfills the function of holding napkins.... The glass component may comprise the bulk of the article and provide much of the commercial appeal, but where the metal component serves the function, the essential character is not obvious. Here, the glass does provide the bulk of the article and most of the commercial appeal, as it is the diamond-shaped pieces that define the article as the "Diamonds" Napkin Ring. However, the brass alone provides the article with its function. The glass pieces are not set into the brass rings, but rather are bound to them by brass wires strung through holes drilled through the glass and wrapped around the soldered portions of the napkin ring. Further, the brass rings are not merely the supporting structure. They also provide commercial appeal, being of substantial size and girth, and being concave in shape giving a more delicate, decorative look to the whole.

Inasmuch as it is not possible to determine the essential character of this article, resort must be made to GRI 3(c), HTSUS. Therefore, the napkin ring is classifiable under the heading which occurs last in numerical order among those which equally merit consideration. Accordingly, it is classifiable in subheading 7418.19.20, HTSUS, as table, kitchen or other household articles of brass. It is also noted that serviette (napkin) rings are among the exemplars for articles of table use in EN 73.23(A)(2), which applies, mutatis mutandis, to heading 7418, HTSUS

- B) In HQ 089258 of December 23, 1991 on the classification of a glass potpourri jar with a filigreed metal lid, CBP concludes:

It is our position that the essential character of the potpourri jars is represented by the glass body, not the metal lid or base. Though the weight and value of the metal parts are greater than the glass parts, the glass bowl provides more of the surface area and the function and use of this merchandise is clearly represented by the glass holder. The product is marketed as a potpourri bowl or holder; the portion of the product which is known as the potpourri bowl or holder consists exclusively of glass. The item would be a potpourri bowl or holder whether it has the lid/base or not.

- C) In HQ 961935 of September 25, 1998, on the classification of a spice rack with glass jars, CBP states:

The spice rack and spice jars are goods put up in sets for retail sale.... Recently, there have been several Court decisions on "essential character" for purposes of GRI 3(b). *Better Home Plastics Corp. v. United States*, 916 F. Supp. 1265 (CIT 1996), affirmed 119 F.3d 969 (Fed. Cir.

1997), involved the classification of shower curtain sets, consisting of an outer textile curtain, inner plastic magnetic liner, and plastic hooks. . . . The CIT found that the plastic liner performed the indispensable function of keeping water inside the shower and therefore held that the plastic liner imparted the essential character upon the set. In its decision affirming the CIT decision, the CAFC stated:

The [CIT] carefully considered all of the facts, and...concluded that the indispensable function of keeping water inside the shower along with the protective, privacy and decorative functions of the plastic liner, and the relatively low cost of the sets all combined to support the decision that the plastic liner provided the essential character of the sets.... The court's decision did not rely solely, or even hinge, on the indispensability of the water-retaining function. The decision was substantially based on the importance of the other functions as well as the cost of the entire set. [119 F.3d at 971]....

Based on the foregoing, we conclude that in an essential character analysis for purposes of GRI 3(b), the role of the constituent materials or components in relation to the use of the goods is generally of primary importance, but the other factors listed in EN Rule 3(b)(VIII) should also be considered, as applicable. In this case, the "indispensable function" ...of the set is to store spices. The glass jar component directly performs that function (i.e., spices are stored inside the jars), whereas the function of the stand is subsidiary, to hold the glass jars. The jars could store spices without the stand, but the stand could not store spices without the jars. Moreover, the other factors listed in EN Rule 3(b)(VIII), support the conclusion that the glass jar component establishes the essential character of the set. Insofar as quantity is concerned, there is one stand and there are 12 jars. Bulk and weight also appear to support the glass jar component as providing the essential character. In regard to value, we note that the stated value of the set is relatively small, and that in both Better Home Plastics decisions, the Court took note of value as a factor in the determination of essential character.... Accordingly, we conclude that the essential character of the merchandise is provided by the glass jar component.

D) In HQ 953197 of April 28, 1993, on the classification of glass salt shakers with metal lids, CBP explains:

From the description provided, it appears glass comprises the largest portion of the shaker's area, weighs more than the metal lid, and functions as a container for the condiments. In addition, the glass is the article's most distinguishing characteristic. (see HQ 086166 of 4/9/90, HQ 089258 of 12/23/91)

While the metal lid does filter salt and pepper, this is one function of the entire article, and only one of the many factors to be considered when determining the entire article's character. Because of the many characteristics the glass portion contributes to the whole article, we find that glass gives the whole shaker its character. Therefore, the shaker is classifiable under subheading 7013.39.20, HTSUS.

## **FUNDAMENTALS OF CLASSIFICATION REGARDING HOUSEHOLD ARTICLES**

### **General Rules of Interpretation (GRI's)**

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI's). The systematic detail of the harmonized system is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied. [HQ 963610, *et al.*]

- A) The Notes to Section XV, excerpted below, list what is **not** covered. Most of these items, such as paints, pyrophoric alloys, headgear, vehicles, measuring instruments, and ammunition, have little or no relation to household articles.

### **SECTION XV, NOTES**

1. This section does not cover:
  - (d) Umbrella frames or other articles of heading 6603;
  - (e) Goods of chapter 71 (for example, precious metal alloys, base metal clad with precious metal, imitation jewelry);
  - (f) Articles of section XVI (machinery, mechanical appliances and electrical goods);
  - (k) Articles of chapter 94 (for example, furniture, mattress supports, lamps and lighting fittings, illuminated signs, prefabricated buildings);
  - (l) Articles of chapter 95 (for example, toys, games, sports equipment);

- (m) Hand sieves, buttons, pens, pencil-holders, pen nibs or other articles of chapter 96 (miscellaneous manufactured articles); or
- (n) Articles of chapter 97 (for example, works of art).

Note that heading 6603 includes accessories.

The expression “clad” in the phrase “metal clad with precious metal” throughout the tariff schedule means material made with a base of metal upon one or more surfaces of which there is affixed by soldering, brazing, welding, hot-rolling or similar mechanical means a covering of precious metal. Except where the context otherwise requires, the expression also covers base metal inlaid with precious metal. Section XIV, Note 7. For example, the US ten-cent coin, quarter-dollar coin, and half-dollar coin are all “clad” coins, produced from three metal strips that are bonded together and rolled to the required thickness. The face of these coins is 75 percent copper and 25 percent nickel and the core, which is visible along the edges of the coins, is composed of pure copper.

Hand sieves described in the ENs as “used for separating solid substances according to particle size” does not include colanders or similar kitchen equipment used to strain water from vegetables, etc.

In HQ 963777 of April 2, 2001, CBP classifies ordinary kitchen strainers in heading 7323, HTSUS. In that ruling, CBP states: “This determination is supported by the EN’s, excerpted above. We note that the strainers retain the character of iron or steel articles. This determination is consistent with HQ 964751 dated March 26, 2001, wherein we found steel strainers to be classified in subheading 7323.99.90, HTSUS.”

## **EXPLANATORY NOTES**

In interpreting the headings and subheadings, CBP looks to the Harmonized Commodity Description and Coding System Explanatory Notes (EN). Although not legally binding, they provide a commentary on the scope of each heading of the HTSUS. It is CBP’s practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989). [HQ 964945, *et al.*]

It has therefore been the practice of CBP to follow, whenever possible, the terms of the Explanatory Notes when interpreting the HTSUS. It is not easy to give rules for classification when dealing with an “articles” provision. Generally, an article should be classified in the provision that most specifically describes the item.

## **SETS**

The following rulings concern the classification of sets of household articles. In HQ 950609, CBP establishes the idea that a set of household articles fails GRI 3, when it includes storage containers. Although this ruling did not involve articles of metal, the policy has been adopted to those headings.

- A) In HQ 950609 of January 7, 1992, CBP classifies a "27 piece ultimate organizer set" in a revolving stand. The merchandise included plastic measuring cups, measuring spoons, tools and holder, a steel whisk, glass spice bottles with plastic caps, and a can opener, a bottle opener and a vegetable peeler of plastic and steel. While the item was commercially known as a set, it failed GRI 3(b).

The articles included in the kitchen organizer are used for divergent purposes. Although the articles classifiable as plastic kitchenware, handtools or knives relate to the preparation or serving of food or drink, the spice bottles are principally used to store food. Since the components of the kitchen organizer are put together to carry out several different activities or to meet various needs, they do not satisfy criterion (b) in Explanatory Note X to Rule 3(b). Since the kitchen organizer fails as a set, we return to GRI 1 to classify each component of the kitchen organizer separately.

- B) In HQ 954946 of October 19, 1993, CBP classifies a typical cookware set, containing pots and pans of stainless steel, clad steel/aluminum and plastic handles. In that ruling, CBP states:

In PC 879449, the subject set of cookware was held to be classifiable under subheading 7323.93.00, HTSUS. You have requested that we review that ruling because you state it was based upon the merchandise being wholly of stainless steel....

In part, section XV, note 5 [Now Note 7], HTSUS, states that, ...except where the headings otherwise require, articles of base metal (including articles of mixed materials treated as articles of base metal under the General Rules of Interpretation) containing two or more base metals are to be treated as articles of the base metal predominating by weight over each of the other metals. Based upon section XV, note 5 [Now Note 7], HTSUS, because the stainless steel material predominates by weight over the other materials which make up the cookware in the cookset, it is our position that the 8-piece set of cookware is classifiable under subheading 7323.93.00, HTSUS.

- C) NY I82582 of June 4, 2002, addresses the classification of a set containing an aluminum pancake maker, a batter dispenser and a food chopper. In that ruling, the food chopper is held to be unrelated to the other items in the "set" and CBP states:

The pancake maker is a double-sided folding pan with a non-stick surface.

The batter is poured onto the pan, cooked on one side for a few seconds and turned over to cook the other side. The aluminum appears to be cast.

The applicable subheading for the pancake maker will be 7615.19.10, HTSUS, which provides for table, kitchen or other household articles...of aluminum, other, cooking and kitchen ware, enameled or glazed or containing nonstick interior finishes, cast.

The batter dispenser is a plastic container with a hole in the bottom. The hole can be opened and closed by a simple plunger to dispense even amounts of batter.

The applicable subheading for the batter dispenser will be 3924.10.40, HTSUS, which provides for tableware, kitchenware, other household articles and toilet articles, of plastics: tableware and kitchenware: other.

The food chopper is a plunger-operated mechanical appliance with rotating blades. The appliance is used on a table or chopping board to chop, mince or dice food.

The applicable subheading for this product will be 8210.00.00, HTSUS, which provides for hand-operated mechanical appliances, weighing 10 kg. or less, used in the preparation, conditioning or serving of food or drink.

- D) NY I81351 of May 29, 2002 involves a 100-piece Kitchen-in-the-box. It contains an 8-piece aluminum cookware set, a 5-piece steel bakeware set, a 59-piece set of plastic accessories, a 15-piece cutlery set, a 6-piece nylon tool set, and a 7-piece textile set. Because of the plastic storage accessories and of the textile articles, it is held not to be a set for tariff purposes. The classification of the textile required further information. The aluminum cookware set is classified in heading 7615.19.30, HTSUS, which provides for table, kitchen or other household articles and parts thereof, of aluminum, other, cooking and kitchen ware, enameled or glazed or containing non-stick interior finishes, other.

The bakeware set is classified in heading 7323.99.70, HTSUS, which provides for table, kitchen or other household articles and parts thereof, of iron or steel, other, other, not coated or plated with precious metal, other, cookingware. The set of plastic accessories was classified in heading 3924.10.40, HTSUS, which provides for tableware, kitchenware, other household articles, of plastics...tableware and kitchenware...other. The cutlery set is classified in heading 8211.10.0000, (HTS), which provides for knives with cutting blades, serrated or not, sets of assorted articles.

## **ADDITIONAL INFORMATION**

### **The Internet**

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, on June 20, 2001, CBP launched the "Know Before You Go" publication and traveler awareness campaign designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

### **CBP Regulations**

The current edition of *CBP Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound, 2003 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Regulations as of April 1, 2003, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

### **Customs Bulletin**

The *Customs Bulletin and Decisions* ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the *Customs Bulletin*. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

## **Importing Into the United States**

This publication provides an overview of the importing process and contains general information about import requirements. The February 2002 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The February 2002 edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

## **Informed Compliance Publications**

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

Product Related Publication: Tableware, Kitchenware, other Household Articles and Toilet Articles of Plastic.

## Value Publications

*Customs Valuation under the Trade Agreements Act of 1979* is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

*Customs Valuation Encyclopedia* (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

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