

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

Cutlery of Headings 8211 through 8215 of the Harmonized Tariff Schedule of the United States



AN INFORMED COMPLIANCE PUBLICATION

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U.S. CUSTOMS and BORDER PROTECTION

NOTICE:

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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.

Regulations and Rulings (RR) of the Office of International Trade 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 of Regulations and Rulings is entitled “Cutlery of Headings 8211 through 8215 of the Harmonized Tariff Schedule of the United States.” It provides guidance regarding the classification of these items. 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 U.S. Customs and Border Protection, Office of International Trade, Executive Director, Regulations and Rulings, 799 9th Street N.W. 7th floor, Washington, D.C. 20229-1177.

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INTRODUCTION

This Informed Compliance Publication pertains to the articles of cutlery found in headings 8211 through 8215 of the Harmonized Tariff Schedule of the United States (HTSUS). These include, inter alia, tools used at the table (e.g., forks, knives and spoons), metal utensils used in the kitchen for preparing or serving food (e.g., skimmers, serving forks, and ice tongs), butcher and trade knives, scissors, manicure and pedicure instruments and hand-held office cutlery.

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, the remaining GRIs, 2 through 6, are applied in order.

Articles of cutlery are classified under Chapter 82 of the HTSUS. The Legal Notes to that Chapter state:

1. Apart from blow torches and similar self-contained torches, portable forges, grinding wheels with frameworks, manicure or pedicure sets, and goods of heading 8209, this chapter covers only articles with a blade, working edge, working surface or other working part of:
 - (a) Base metal;
 - (b) Metal carbides or cermets;
 - (c) Precious or semiprecious stones (natural, synthetic or reconstructed) on a support of base metal, metal carbide or cermet; or
 - (d) Abrasive materials on a support of base metal, provided that the articles have cutting teeth, flutes, grooves or the like, of base metal, which retain their identity and function after the application of the abrasive.
2. Parts of base metal of the articles of this chapter are to be classified with the articles of which they are parts, except parts separately specified as such and toolholders for handtools (heading 8466). However, parts of general use as defined in note 2 to section XV are in all cases excluded from this chapter.

Heads, blades and cutting plates for electric shavers and electric hair clippers are to be classified in heading 8510.

3. Sets consisting of one or more knives of heading 8211 and at least an equal number of articles of heading 8215 are to be classified in heading 8215.

The Additional U.S. Notes to Chapter 82, HTSUS, state, in pertinent part:

1. The provisions in this chapter which specifically refer to kitchen or tableware include articles of types which are used outdoors as well as those which are used indoors.

* * *

3. For the purposes of determining the rate of duty applicable to sets provided for in heading 8205, 8206, 8211 or 8215, a specific rate of duty or a compound rate of duty for any article in the set shall be converted to its ad valorem equivalent rate, i.e., the ad valorem rate which, when applied to the full value of the article determined in accordance with section 402 of the Tariff Act of 1930, as amended, would provide the same amount of duties as the specific or compound rate.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989). The General ENs to Chapter 82, HTSUS, provide, in relevant part:

This Chapter covers certain specific kinds of ... cutlery ... which are excluded from the preceding Chapters of Section XV, and are not machinery or appliances of Section XVI ... nor instruments or apparatus proper to Chapter 90, nor articles of heading 96.03 or 96.04.

* * *

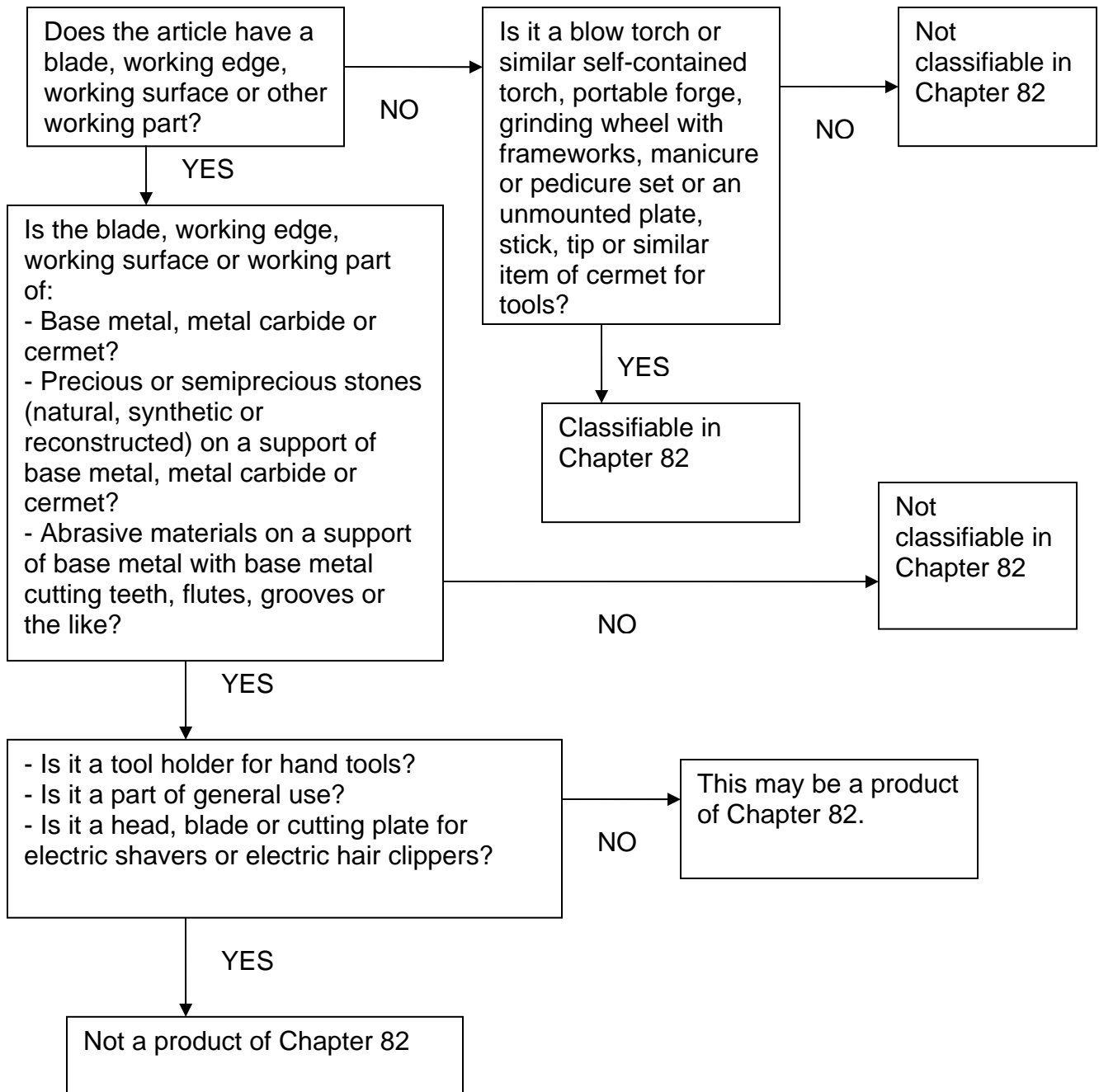
This Chapter includes:

(D) Articles of cutlery (whether intended for professional, personal or domestic use), certain mechanical domestic appliances, spoons and forks and similar tableware and kitchen utensils (heading 82.10 to 82.15).

* * *

Tools, cutlery, etc., do not in general fall in this Chapter unless the blade, working edge, working surface or other working part is of base metal, of metal carbides ... or of cermets ...; provided, however, that this condition is met, they remain in the Chapter even if fitted with non-metallic handles, bodies, etc., of a weight exceeding that of the metallic working part (e.g., a wooden plane with a metal blade).

IS IT A PRODUCT OF CHAPTER 82?



HEADING 8211, HTSUS

Heading 8211, HTSUS, provides for: “Knives with cutting blades, serrated or not, blades (including pruning knives), other than knives of heading 8208, and blades and other base metal parts thereof.” The heading covers knives with blades that cut or slice (whether containing a flat, serrated, or hollow blade),¹ non-folding knives (of the type used at the table, in the kitchen, or for a trade), folding knives, and knives with retractable or interchangeable blades.²

Excluded from this heading are the handtools of heading 8201, HTSUS (e.g., hay knives, bill hooks and machetes),³ knives and blades for machines or mechanical appliances of heading 8208, HTSUS, knives used in medicine or surgery of Section XVIII, HTSUS, and the articles of cutlery of headings 8214, HTSUS, and 8215, HTSUS (e.g., fish-knives and butter knives).

The heading is divided at the six-digit subheading level as follows:

| | |
|---------|---------------------------------------|
| 8211.10 | Sets of assorted articles |
| 8211.91 | Table knives having fixed blades |
| 8211.92 | Other knives having fixed blades |
| 8211.93 | Knives having other than fixed blades |
| 8211.94 | Blades |
| 8211.95 | Handles of base metal |

Subheading 8211.10, HTSUS, provides for: “Sets of assorted articles.” Sets are classified in the HTSUS by application of GRI 3, specifically GRI 3(b), which provides that “[w]hen, by application of Rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

EN (X) to GRI 3(b) explains that to be classified as a set, the imported merchandise must:

- (a) consist of at least two different articles which are, prima facie, classifiable in different headings;
- (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and

¹ A flat blade normally has a beveled edge. A serrated edge is jagged with teeth and is used to cut food items that are hard on the outside and soft on the inside. A hollow edge has depressions ground into the face of the blade which prevents food from sticking to the knife.

² See EN 82.11

³ A hay knife has a blade that is at a right angle with respect to the handle. It is designed to chop into a haystack. A bill hook is a heavy knife with a hooked end used to prune or clear brush. A machete is used to clear weeds and brush and has a blade between 17 and 24 inches long.

- (c) are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).

The ENs to subheading 8211.10, HTSUS, explain that the provision is limited in scope to “sets of different knives or sets of assorted articles in which the knives predominate in number over the other articles.”⁴ Sets consisting of one or more knives of heading 8211, HTSUS, and an equal or greater number of other articles of heading 8215, HTSUS, are classified under heading 8215, HTSUS.⁵

Subheading 8211.91, HTSUS, provides for: “Table knives having fixed blades.” Table knives are primarily used at a table (whether indoor or outdoor). A “fixed” blade is one that is neither adjustable nor interchangeable. Included in this subheading are dinner knives, dessert knives (a smaller version of the dinner knife), steak knives and carving knives of the type designed and marketed for table use.⁶ Note that if the handle of a knife is made of stainless steel, the importer must specify the nickel and manganese content of the handle for classification purposes.⁷

Subheading 8211.92, HTSUS, provides for: “Other knives having fixed blades.” These are less decorative in appearance than table knives and include kitchen knives (e.g., butchers’ knives,⁸ Chinese cleavers and ulu knives)⁹ and certain knives used by various trades (e.g., cobblers’ knives and knives for bookbinders).

Subheading 8211.93, HTSUS provides for: “Knives having other than fixed blades.” These are knives with folding, retractable or interchangeable blades (e.g., penknives, pocketknives¹⁰ and box cutters).¹¹

⁴ See Headquarters Ruling Letter (HQ) 967754, dated November 18, 2005 (six 4 ½-inch steak knives, 3-inch paring knife, 5¼-inch utility knife, 6-inch boner knife, 8-inch bread knife, 8-inch chef knife, 7 ½ inch butcher’s knife, scissors, and a hardwood storage block for the knives and the scissors, classified as a set in subheading 8211.10, HTSUS).

⁵ Note 3 to Chapter 82, HTSUS, provides that “sets consisting of one or more knives of heading 8211 and at least an equal number of articles of heading 8215 are to be classified in heading 8215.”

⁶ Carving knives are used to carve cooked meats. If the carving knife is not intended for table use, then it cannot be considered a table knife and would be classified within subheading 8211.92, HTSUS.

⁷ Subheadings 8211.91.20, HTSUS, and 8211.91.25, HTSUS, provide for knives with stainless steel handles that contain nickel or over 10 percent by weight of manganese. The term “containing” is defined by General Note 3(h)(v)(B), HTSUS, as meaning that “the goods contain a significant quantity of the named material.” U.S. Customs and Border Protection (CBP) has determined that a nickel content of less than 0.3% is not “significant.”

⁸ Used to cut or trim uncooked meat.

⁹ Both the ulu knife and the Chinese cleaver are cutting knives used in the kitchen. Conversely, kitchen cleavers (heading 8214, HTSUS) are heavier in weight and are designed to split items, such as bone, with a chopping action.

¹⁰ A pocketknife folds and is carried in the pocket. A penknife is a smaller version of a pocketknife. These knives may include auxiliary tools in the same housing (such as scissors, corkscrews, eating utensils, etc) that are not excluded by the Legal Notes to Section XV, HTSUS, and remain classified in subheading 8211.93.00, HTSUS, by application of GRI 1. See HQ 953015, dated February 24, 1993.

¹¹ See HQ 956076, dated October 21, 1994 (steel box cutters classified in subheading 8211.93.00, HTSUS).

Subheadings 8211.94 and 8211.95, HTSUS, cover “blades”¹² and “handles of base metal,” respectively, for the knives of heading 8211, HTSUS.

HEADING 8212, HTSUS

Heading 8212, HTSUS, provides for: “Razors and razor blades (including razor blade blanks in strips), and base metal parts thereof.” The heading is divided at the six-digit subheading level as follows:

| | |
|---------|---|
| 8212.10 | Razors |
| 8212.20 | Safety razor blades, including razor blade blanks in strips |
| 8212.90 | Other parts |

Subheading 8212.10, HTSUS, provides for: “Razors.” Included here are open blade razors, plastic razors (if presented with their metal razor blades),¹³ and base metal safety razors (with or without their blades).

Subheading 8212.20, HTSUS, provides for: “Safety razor blades, including razor blade blanks in strips.” The blades of this subheading are for hair removal. Razor blade blanks in strips with the approximate shape or outline of the finished blade are included in this provision.¹⁴ Single-edged razor blades used for purposes other than shaving or shaping hair are classified elsewhere in the tariff.

Subheading 8212.90, HTSUS, provides for: “Other parts” of razors. The parts classified here are of base metal. Parts of electric razors are excluded.¹⁵

HEADING 8213, HTSUS

Heading 8213, HTSUS, provides for: “Scissors, tailors’ shears and similar shears, and blades and other base metal parts thereof.” The listed articles are classified at the eight-digit subheading level according to their value per dozen as follows:

| | |
|------------|---|
| 8213.00.30 | Valued not over \$1.75/dozen |
| 8213.00.60 | Pinking shears, valued over \$30/dozen |
| 8213.00.90 | Valued over \$1.75/dozen: Other (including parts) |

The ENs to heading 8213, HTSUS, provide, in pertinent part:

The scissors classified in this heading consist of two superimposed blades, sometimes serrated, articulated on a screw or pin near the centre. In general, the heading covers only those scissors in which each

¹² See HQ 954177, dated July 30, 1993 (ulu knife blade classified in subheading 8211.94, HTSUS).

¹³ If presented without the blades, they are classified in heading 3924, HTSUS.

¹⁴ See EN 82.12

¹⁵ See EN 82.12(b) “The heading excludes ... electric razors and heads, blades and cutting plates of such razors (heading 85.10).”

blade is fitted, at one end, with a finger ring.¹⁶ The blades may be in one piece, or consist of jointed cutting blades and handles.

Heading 8213, HTSUS, includes ordinary scissors with straight or curved blades, scissors for professional use (e.g., hairdressers' scissors), manicure scissors (including those in which the side of the blade forms a nail file), small folding scissors, and scissors that serve certain special functions (e.g., horse clipping scissors, hoof cutting scissors,¹⁷ or twin scissors for cutting strips).¹⁸ Excluded are surgical shears,¹⁹ one-handed pruners and shears (e.g. secateurs and poultry shears), hedge shears and sheep shears not fitted with finger rings.

Note that multiple scissors of different sizes, values and subheading classifications under heading 8213, although blister-packed for retail sale, are not considered a "set" per GRI 3(b) because the scissors are regarded as a single article. See EN (X) to GRI 3(b).²⁰

HEADING 8214, HTSUS

Heading 8214, HTSUS, provides for: "Other articles of cutlery (for example, hair clippers, butchers' or kitchen cleavers, chopping or mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files); base metal parts thereof." The heading is divided at the six-digit subheading level as follows:

| | |
|---------|--|
| 8214.10 | Paper knives, letter openers, erasing knives, pencil sharpeners (nonmechanical) and blades and other parts thereof |
| 8214.20 | Manicure or pedicure sets and instruments (including nail files), and parts thereof |
| 8214.90 | Other |

Subheading 8214.10, HTSUS, provides for: "Paper knives, letter openers, erasing knives, pencil sharpeners (nonmechanical) and blades and other parts thereof." Paper knives are letter openers. Erasing knives are designed to remove or erase by scratching the paper. Nonmechanical pencil sharpeners are hand-held and do not contain gears or moving parts.

Subheading 8214.20, HTSUS, provides for: "Manicure or pedicure sets and instruments (including nail files) and parts thereof."²¹ EN 82.14 provides that these manicure and pedicure sets (classified at the eight-digit level in subheading 8214.20.60 and

¹⁶ See HQ 955292, dated February 1, 1994 (finding that EN 82.13 does not limit or restrict the heading to scissors with finger rings).

¹⁷ Two-handed farriers' shears, used for cutting animals' hooves, are excluded from this provision and are classified within heading 8205, HTSUS.

¹⁸ See EN 82.13

¹⁹ See Note 1(h) to Section XV, HTSUS.

²⁰ See HQ 955938, dated June 20, 1994.

²¹ See EN(X) to GRI 3(b) for definition of a set.

8214.20.90, HTSUS) “usually contain ... instruments in boxes, cases, etc., and may include scissors, non-metallic nail polishers, hair removing tweezers, etc., which, taken separately, would be classified in their appropriate headings.”²² The components of these sets may be of any material.²³ The instruments used for manicure or pedicure purposes covered by this subheading (classified at the eight-digit level in subheading 8214.20.30, HTSUS) are “cuticle or corn knives, cuticle pushers,²⁴ nail files, nailcleaners, nail nippers and clippers.” Similar articles that are not specifically named in the text of the subheading are classified elsewhere.²⁵

Subheading 8214.90, HTSUS, provides for “Other” articles of cutlery. Included are items such as non-electric hand-operated hair clippers and their spare parts, cutting plates and heads for the mechanical clippers of heading 8436, HTSUS, butchers’ or kitchen choppers, cleavers,²⁶ mincing knives,²⁷ cheese shavers, and cuticle nippers.

HEADING 8215, HTSUS

Heading 8215, HTSUS, provides for: “Spoons, forks, ladles, skimmers, cake-servers, fish knives, butter-knives, sugar tongs and similar kitchen or tableware; and base metal parts thereof.” The ENs to heading 8215, HTSUS, state, in pertinent part: “[t]hese goods may be of one piece or fitted with handles of base metal, wood, plastics, etc.”²⁸

The heading is divided at the six-digit subheading level as follows:

8215.10 Sets of assorted articles containing at least one article
 plated with precious metal

²² A manicure kit may be classified as a “manicure set” in subheading 8214.20.60 or 8214.20.90, HTSUS, even if it includes a wooden cuticle pusher.

²³ See HQ 955446, dated February 14, 1994 (manicure set containing scissors for nails, scissors for cuticles, a cuticle pusher, a nail cleaner, and two emery boards, all packaged in a plastic case, classified in subheading 8214.20.90, HTSUS). See also HQ 962765, dated June 29, 2000 (package containing foam rubber toe separators, plastic nail brush, emery boards and a pair of rubber thongs, classified as pedicure sets because all of the items were “appropriate articles to aid in the cosmetic treatment of the feet and toenails”). However, in HQ 967739, dated September 29, 2006, CBP determined that pedicure and manicure kits containing moisture socks or gloves were not classified as “sets” in subheading 8214.20, HTSUS, because the gloves and the socks serve a different purpose from the implements with which they were packaged.

²⁴ Although cuticle pushers are identified in the tariff as products classified in this subheading, wooden cuticle pushers are excluded because the working edge is not of one of the materials listed in Note 1 to Chapter 82, HTSUS.

²⁵ See HQ 958067, dated January 4, 1996 (cuticle nippers classified in subheading 8214.20.90, HTSUS). In that ruling, CBP concluded, with regard to subheading 8214.20.30, HTSUS, that “the absence of words ‘and the like,’ ‘among others,’ or similar indications that the named exemplars are not intended to be exclusive, is an indication that the provision [excludes] other articles not specifically named.”

²⁶ Cleavers of subheading 8214.90.30, and 8214.90.60, HTSUS, cut through bone and split items apart. They weigh at least 450 grams, 0.992 pounds or 15.872 ounces. Chinese cleavers, classified in heading 8211, HTSUS, are lighter in weight, sharper and are designed to slice.

²⁷ Mincing knives are different from knives classified within heading 8211, HTSUS, since they do not have the normal shape of a knife, are sometimes designed to be used with both hands, and are used for chopping rather than slicing or carving.

²⁸ See EN 82.15

| | |
|---------|------------------------------------|
| 8215.20 | Other sets of assorted articles |
| 8215.91 | Other [plated with precious metal] |
| 8215.99 | Other [other] |

Subheadings 8215.10 and 8215.20, HTSUS, provide for sets of assorted articles. As explained above, to be classified as a set, the merchandise must satisfy the requirements set forth in EN(X) to GRI 3(b). Per Note 3 to Chapter 82, HTSUS, these sets may contain one or more knives of heading 8211, HTSUS, provided that an equal or greater number of articles of heading 8215, HTSUS, are included.

Subheading 8215.10, HTSUS, provides for “Sets of assorted articles containing at least one article plated with precious metal.” The term “precious metal” refers to silver, gold and platinum.²⁹ “Plating” refers to the process of plating base metals with “precious metals by electrolysis, vapour deposition, spraying or immersion in a solution of salts of precious metals,” or similar methods.³⁰ Subheading 8215.20 provides for “Other sets of assorted articles.”

Subheadings 8215.91 and 8215.99, HTSUS, provide for the articles listed under heading 8215, HTSUS, which are not packaged as sets suitable for retail sale. Specifically, subheading 8215.91, HTSUS, provides for forks, spoons, ladles, and other articles, including parts, which are plated with precious metal. Subheading 8215.99, HTSUS, provides for other forks, spoons, ladles and articles, including parts, of heading 8215, HTSUS. Note that the individual articles of subheading 8215.99, HTSUS, are classified according to the component material of the handle (e.g., base metal, wood or plastic).³¹

We also note that, generally:

- The spoons of heading 8215, HTSUS, have an oval or round shallow bowl shape and are of a type used for eating, stirring or serving.³² Measuring spoons are excluded.³³
- The knives of heading 8215, HTSUS, differ from the knives of headings 8211 and 8214, HTSUS, in that they have blunt edges.

²⁹ See Note 4(a) to Chapter 71, HTSUS.

³⁰ See EN General Note 2 to Chapter 71, HTSUS.

³¹ When the handle is made of multiple materials, consult EN GRI 3(b) (VII) and (VIII) for guidance as to how to determine the handle’s essential character. See footnote ⁷ for a definition of “containing” as it relates to the nickel content within the stainless steel handle. Subheading 8215.99.45 provides for spoons imported without handles.

³² As with all of the tools noted in headings 8211, HTSUS, through 8215, HTSUS, spoons must have a working surface or working part of one of the materials listed under Note 1 of Chapter 82, HTSUS. Thus, a stainless steel spoon that is coated or encased with polyvinyl chloride (pvc) or other non-metallic material, such as a child’s spoon, would not be classified in heading 8215, HTSUS.

³³ See, for example, HQ 968080, dated May 19, 2006, measuring spoon classified in heading 7323, HTSUS, as “Table, kitchen or other household articles and parts thereof, of iron or steel.”

- The forks have two or more tines or prongs, and are used for eating, cooking or serving food.³⁴
- Other items classified in subheading 8215.99, HTSUS, include sugar tongs, ice tongs, lobster grips, cheese spreaders, turners and cake servers.

APPLICABLE DUTY FOR SETS OF HEADINGS 8211 AND 8215, HTSUS

The column one, “general” rate of duty for the sets of subheadings 8211.10, 8215.10 and 8215.20, HTSUS (as noted under the “Rates of Duty” header in the tariff), is “the rate of duty applicable to the article in the set subject to the highest rate of duty.” In other words, to determine the column one, general rate of duty of a specific set, the tariff classification and corresponding duty rate for every item in the set must be known (including the case (if not a fitted case)), and the item with the highest rate must be identified.³⁵ For duty comparison, Additional U.S. Note 3 to Chapter 82, HTSUS, requires that the specific and compound rates of duty be converted to the ad valorem equivalent.

For example, to determine the ad valorem equivalent of an article valued at 20¢/each that is subject to a compound duty rate of 0.4¢ ea. + 6.4%:

| | STEPS | RESULT |
|----|---|-------------------------|
| 1. | Divide the specific duty rate by the value of the article | $0.004/0.2 = 0.02$ |
| 2. | Multiply the quotient by 100 (to get the %) | $0.02 \times 100 = 2\%$ |
| 3. | Add this percentage to the ad valorem rate | $2\% + 6.4\%$ |
| 4. | The result is the ad valorem equivalent | 8.4% |

If the high ad valorem rate is the ad valorem equivalent of a compound rate, the compound rate of duty prevails (not the ad valorem equivalent rate) and the specific rate is applied to every item in the set.³⁶

If the set satisfies the eligibility requirements of a special trade program (e.g., a free trade agreement), the applicable rate of duty is that which is identified under the “Rates of Duty” header in the tariff as the column one “special” rate of duty. For example,

³⁴ Corn holders have handles and two tines and would be covered by this definition and classified in subheading 8215.99, HTSUS, in accordance with the material of the handle.

³⁵ If the merchandise is imported in a fitted case, i.e., one that is (1) specially shaped or fitted to contain a specific article or set of articles; (2) suitable for long-term use; (3) presented with the articles for which they are intended; (4) of a kind normally sold with such articles; and (5) does not give the whole its essential character, then the case is classified with the goods by application of GRI 5(a). See, for example, HQ 967754 dated November 18, 2005 (hardwood storage block classified with the knives and scissors it was designed to hold, as a set, by application of GRI 3(b)).

³⁶ See HQ 968129 dated May 15, 2006.

imports from Jordan eligible for the preference program pursuant to the United States-Jordan Free Trade Agreement are identified in the tariff as “JO.” A set classified under subheading 8215.20, HTSUS, that meets the origin requirements under the US-JO Free Trade Agreement, enjoys duty-free treatment (see table below).³⁷

| Harmonized Tariff Schedule of the United States | | | | | | |
|---|----------------|--|---------------------|--|--|--|
| Heading/ Subheading | Stat Suffix | Article description | Unit of Quantity | Rates of duty | | |
| | | | | 1 | | 2 |
| | | | | General | Special | |
| 8215 | | Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware; and base metal parts thereof: | | | | |
| 8215.20.00 | 00 | Other sets of assorted articles | pcs 1/ | The rate of duty applicable to that article in the set subject to the highest rate of duty | Free (AU, BH, CA, CL, D, E, IL, J, JO, MA, MX, OM, P, PE, SG | The rate of duty applicable to that article in the set subject to the highest rate of duty |

UNIT OF QUANTITY

Statistical Note 1 to Chapter 82 states: “[f]or the purposes of statistical reporting of “sets” of heading 8205, 8206, 8211 or 8215, the number of pieces reported shall be the total number of separate pieces in the set(s).”³⁸ For example, if a knife is imported with its blade attached and three replacement blades, the importer must report four pieces. (A knife with an attached blade is counted as one piece.)³⁹

COUNTRY OF ORIGIN MARKING REQUIREMENTS

³⁷ Note that a set classified under subheading 8215.20.00, HTSUS, is not eligible for preferential treatment under the Generalized System of Preference (GSP). A product's eligibility for GSP treatment is noted by the letter "A" under the special rates of duty column. Therefore, a set classified under subheading 8215.20, HTSUS, is dutiable based on the column one, general rate of duty (i.e., it carries a duty equal to that of the item in the set with the highest duty rate). This is true even if the item with the highest duty rate is eligible (on its own) for duty-free treatment under GSP. See NY ruling N066893 dated July 2, 2009.

³⁸ See HQ 088521, dated May 13, 1991 (duty was applied by counting each crayon, eraser and sharpener within the set).

³⁹ See HQ 968129, dated May 15, 2006.

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Congressional intent in enacting 19 U.S.C. 1304 was that the ultimate purchaser should be able to know, by an inspection of the marking on the imported goods, the country in which the goods were produced.

Part 134 of the CBP Regulations (19 CFR 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304. 19 CFR 134.43(a) requires that:

Except for goods of a NAFTA country, articles of a class or kind listed below shall be marked legibly and conspicuously by die stamping, cast-in-the-mold lettering, etching (acid or electrolytic), engraving, or by means of metal plates which bear the prescribed marking and which are securely attached to the article in a conspicuous place by welding, screws, or rivets: knives, forks, steels, cleavers, clippers, shears, scissors, safety razors, blades for safety razors, surgical instruments, dental instruments, scientific and laboratory instruments, pliers, pincers, nippers and hinged hand tools for holding and splicing wire, vacuum containers, and parts of the above articles. Goods of a NAFTA country shall be marked by any reasonable method which is legible, conspicuous and permanent as otherwise provided in this part.

CBP has allowed some exceptions pursuant to 19 CFR 134.32(d) [General exceptions to marking requirements] which provides that:

The articles described or meeting the specified conditions set forth below are excepted from marking requirements (see subpart C of this part for marking of the containers):

(d) Articles for which the marking of the containers will reasonably indicate the origin of the articles;

The requirements are applied on a case by case basis and exceptions may be granted only if the CBP official at the port of entry is satisfied that, in all foreseeable circumstances, the imported article will reach the ultimate purchaser in its properly marked and unopened container.⁴⁰ For example, razor blades imported in plastic dispensers are excepted from individual marking if the dispensers that hold the blades are legibly, conspicuously, and permanently marked to indicate the country of origin of the blades. Conversely, in C.S.D. 80-44, Customs did not except a set of packaged flatware, on the basis that:

[i]t is reasonable to expect that the purchaser at retail might open the presentation pack to examine the merchandise. Once the packages have been opened it is conceivable that the container markings might no

⁴⁰ See HQ 561831, dated August 15, 2000.

longer be intact or that the unmarked flatware pieces from the open packages might be purchased individually.

In addition to the country of origin marking requirements, cutlery that is marked to contain a specific metal must conform to the standards claimed. For instance, if the flatware is marked “stainless steel” (an alloy produced from iron, chromium and carbon and sometimes other elements), the product must contain by weight 1.2% or less of carbon and 10.5% or more of chromium, with or without other elements.⁴¹ Flatware labeled “18/8 stainless steel” must contain 18 percent chromium and 8 percent nickel. Any false representation or description of the goods will result in the denial of admission into the United States pursuant to 15 U.S.C. 1125.

⁴¹ See Note 1(e) to Chapter 72, HTSUS.

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, the "Know Before You Go" publication and traveler awareness campaign is designed to help educate international travelers.

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

Customs Regulations

The current edition of Customs and Border Protection 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 edition of Title 19, Code of Federal Regulations 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 current 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 current 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, U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000.

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.

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.

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.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-888-NO-DROGA



Visit our Internet web site: <http://www.cbp.gov>