

D. Application of Harmonized System for coding traded goods

13.13. *General Rules for the Interpretation.* The Harmonized System incorporates a series of preliminary provisions codifying the principles on which the HS is based and laying down general rules for ensuring uniform legal interpretation. There are six of these rules, known as the General Rules for the Interpretation of the Harmonized System, also known as the General Interpretative Rules (or GIRs), which are applied in hierarchical fashion, i.e., Rule 1 takes precedence over Rule 2, Rule 2 over Rule 3, etc. Compilers should apply these rules when classifying goods not classified by customs. An overview of these rules and the classification issues to which they apply are provided in the boxes below.

Box XIII.2

General Interpretative Rule 1 (GIR 1)

GIR 1: Role of titles of Sections and Chapters and Sub-Chapters

The titles of Sections, Chapters, and Sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. There are, however, cases where the texts of the headings and Notes do not, of themselves, determine the appropriate heading with certainty. Classification is then effected by application of the other Rules.

Box XIII.3

General Interpretative Rule 2 (GIR 2 (a) and GIR 2 (b))

GIR 2 (a): Incomplete or unfinished articles; unassembled or disassembled goods

The scope of any heading which refers to a particular article covers not only the complete article but also that article incomplete or unfinished, provided that, as presented, it has the essential character of the complete or finished article. Complete or finished articles presented unassembled or disassembled, usually presented as such due to the requirements or convenience of packing, handling or transport, are to be classified in the same heading as the assembled article. *Examples of application:*

(a) A machine lacking only a flywheel, a bedplate, calendar rolls, tool holders, etc., is classified in the same heading as the machine, and not in any separate heading provided for parts. Similarly, a machine or apparatus normally incorporating an electric motor (e.g., electromechanical hand tools of heading 84.67) is classified in the same heading as the corresponding complete machine even if presented without that motor;

(b) For convenience of transport, many machines and apparatus are transported in an unassembled state. Although in effect the goods are then a collection of parts, they are classified as being the machine in question and not in any separate heading for parts. The same applies to an incomplete machine having the features of the complete machine, presented unassembled.

GIR 2 (b): Mixtures or combinations of materials or substances referred to in one heading

The scope of any heading covering certain materials or substances also includes goods consisting only partly of such materials or substances, unless another heading refers to them in their mixed or composite state. As a consequence of this rule, mixtures and combinations of materials or substances, and goods consisting of more than one material or substance, if, prima facie, classified under two or more headings, must be classified according to the principles of Rule 3.

Box XIII.4

General Interpretative Rule 3 (GIR 3 (a), GIR 3 (b) and GIR 3 (c))

GIR 3 (a): Mixtures, combinations, and goods put up in sets for retail sales, classifiable, prima facie, under two or more headings

Goods should be classified in the heading giving the most specific description. However, there is a provision that if two or more headings each refers to only one of the materials or substances contained in mixed or composite goods, or to only some of the articles included in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete description than the others. *Examples of application:*

- (a) Tufted textile carpets, identifiable for use in motor cars, which are to be classified not as accessories of motor cars in heading 87.08 but in heading 57.03, where they are more specifically described as carpets;
- (b) Unframed safety glass consisting of toughened or laminated glass, shaped and identifiable for use in aeroplanes, which is to be classified not in heading 88.03 as parts of goods of heading 88.01 or 88.02 but in heading 70.07, where it is more specifically described as safety glass.

GIR 3 (b): Classification of goods according to the material or component that gives them their essential character

Covered are such articles as mixed or composite goods, goods consisting of an assembly of different articles, and goods put up in sets for retail sale. This Rule applies only if Rule 3 (a) fails. According to this Rule, goods are classified in the heading applicable to the material or component that gives them their essential character.

Examples of composite goods which can be classified by reference to Rule 3 (b) are:

- (a) Ashtrays consisting of a stand incorporating a removable ash bowl;
- (b) Household spice racks consisting of a specially designed frame (usually of wood) and an appropriate number of empty spice jars of suitable shape and size (usually of glass with lids of plastics or metal).

As a general rule, the components of these composite goods are packaged together.

Examples of sets that can be classified by reference to Rule 3 (b) are:

- (a) Sets consisting of a sandwich made of beef, with or without cheese, in a bun (heading 16.02), packaged with potato chips (French fries) (heading 20.04): *classification in heading 16.02*;
- (b) Sets, the components of which are intended to be used together in the preparation of a spaghetti meal, consisting of a packet of uncooked spaghetti (heading 19.02), a sachet of grated cheese (heading 04.06) and a small tin of tomato sauce (heading 21.03), put in a carton: *classification in heading 19.02*;
- (c) Hairdressing sets consisting of a pair of electric hair clippers (heading 85.10), a comb (heading 96.15), a pair of scissors (heading 82.13), a brush (heading 96.03) and a towel of textile material (heading 63.02), put up in a leather case (heading 42.02): *classification in heading 85.10*;
- (d) Drawing kits comprising a ruler (heading 90.17), a disc calculator (heading 90.17), a drawing compass (heading 90.17), a pencil (heading 96.09) and a pencil-sharpener (heading 82.14), put in a case of plastic sheeting (heading 42.02): *classification in heading 90.17*.

GIR 3 (c): Use of the heading last in numerical order

This rule takes effect when goods cannot be classified by application of GIR 3 (a) or GIR 3 (b). It provides that goods should be classified in the heading which occurs last in numerical order amongst those which equally merit consideration in determining their classification.

Box XIII.5

General Interpretative Rule 4 (GIR 4)

GIR 4: Goods that are not specifically covered by any heading.

Goods that cannot be classified in accordance with Rules 1 to 3—for example, because they have newly appeared on the world market, shall be classified in the heading appropriate to the goods to which they are most akin. Kinship can, of course, depend on many factors, such as description, character or purpose.

Box XIII.6

General Interpretative Rule 5 (GIR 5 (a) and GIR 5 (b))

GIR 5 (a): Cases, boxes and similar containers, suitable for long-term use and presented with the articles for which they are intended

These should be classified in the same heading/subheading as the articles for which they are intended. Examples are: camera cases, musical instrument cases, etc. This rule does not apply to containers that give the whole its essential character, such as a silver caddy containing tea.

GIR 5 (b): Packing materials and packing containers presented with the goods they hold

These are to be classified in the same heading/subheading as the goods they hold. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.

Box XIII.7

General Interpretative Rule 6 (GIR 6)

GIR 6: Classification in subheadings

Classification in the subheadings of a heading must be determined, *mutatis mutandis*, with reference to the principles applicable to classification in the four-digit headings; in any event, the terms of the subheadings or Subheading Notes must be given precedence. This Rule also specifies that, for classification purposes, only subheadings of the same level are comparable; this means that, within a single heading, the choice of a one-dash subheading may be made only on the basis of the texts of the competing one-dash subheadings; similarly, selection of the appropriate two-dash subheading, where necessary, may be made only on the basis of the texts of the subdivisions within the applicable one-dash subheading.

13.14. The Rules establish classification principles that, unless the texts of headings, subheadings or Section or Chapter Notes otherwise require, are applicable throughout the HS Nomenclature. Moreover, the Rules clearly provide a step-by-step basis for the classification of goods within the HS, so that in every case a product must first be classified in its appropriate 4-digit heading, then in its appropriate one-dash subdivision within that heading, and only thereafter in its appropriate two-dash subheading within the predetermined one-dash subdivision; at each step, no account is taken of the terms of any lower-level subdivisions. This principle applies without exception throughout the HS.

13.15. *Settlement of classification disputes.* Where a dispute arises between two or more contracting parties regarding the interpretation or application of the HS, the parties concerned should, in the first instance, endeavour to reach agreement among themselves. However, classification disputes that cannot be settled by direct negotiation are referred through the WCO Secretariat to the Harmonized System Committee (HSC) which, after examination, makes appropriate recommendations for their solution. If the Committee is unable to settle a dispute, it refers the issue to the WCO Council for a recommendation on the question. In either event, the parties to a dispute may agree in advance to accept the recommendation of the Committee or the Council as binding.

13.16. *Use of HS Chapters 98 and 99.* The HS considers Chapters 98 and 99 to be reserved for special use by contracting parties. In practice, there is a tendency for countries to reserve Chapter 98 for goods that can be classified at the Chapter level of the HS and to use Chapter 99 for recording special transactions and commodity categories not classified according to the HS (e.g., postal packages not classified according to kind). It is advisable that this practice be followed by all countries. Compilers are encouraged to code items attributed to Chapters 98 and 99 by applying the formats "98hh" (where "hh" is the code of the HS chapter where goods could have been classified) and "99xxxx" (where "xxxx" is a sequence of digits chosen by a country to code a particular transaction). In general, it is good practice to limit the use of these Chapters as much as possible, since the groupings used by countries in these Chapters are usually not internationally comparable.

Examples of the use of chapters 98 and 99 in the Combined Nomenclature (CN) of the European Union

Chapter 98. This chapter is used to simplify the classification of individual parts of an industrial plant, i.e., large-scale stationary units producing goods or providing services. The commodity codes are composed as follows:

The first four digits shall be 9880

The fifth and the sixth digits shall correspond to the CN chapter to which the goods of the component part belong, the seventh and the eighth digits shall be 0

Chapter 99. This chapter contains codes applicable in intra- and extra-EU trade statistics as defined by the implementing regulations:

Goods delivered to vessels and aircraft:

- 9930 24 00: goods from CN chapters 1 to 24
- 9930 27 00: goods from CN chapter 27
- 9930 99 00: goods classified elsewhere

Goods delivered to offshore installations:

- 9931 24 00: goods from CN chapters 1 to 24
- 9931 27 00: goods from CN chapter 27
- 9931 99 00: goods classified elsewhere

These codes are mandatory within intra-EU trade. As they are optional within extra-EU trade, customs authorities of member States may choose not to apply them.

Trade under military secrecy:

- 9999xx99 (xx is the CN Chapter)
- 9999xxxx (xxxx is the HS-4 code).

These codes are not specified in the legislation and should be provided to Eurostat only in exceptional cases. The real CN code is preferred to be transmitted by Member States.

Codes applicable to Intrastat only:

- Low-value transactions and trade under the simplification threshold (for residual products only): 9950 00 00
- Parts for motor vehicles: 9990 87 zz (zz according to national purposes)
- Parts for aircraft: 9990 88 zz (zz according to national purposes)

Codes to be used only on customs declaration: Certain goods, that are not subject to duties or other prohibitions or restrictions:

- 9905 00 00 for personal property belonging to natural persons transferring their normal place of residence
- 9919 00 00 for the following goods, other than those mentioned in 9905 00 00:

- (a) Trousseaux and household effects belonging to a person transferring his or her normal place of residence on the occasion of his or her marriage; personal property acquired by inheritance
- (b) School outfits, educational materials and related household effects
- (c) Coffins containing bodies, funerary urns containing the ashes of deceased persons and ornamental funerary articles
- (d) Goods for charitable or philanthropic organisations and goods for the benefit of disaster victims

As these codes are optional, customs authorities of member States may choose not to apply them.