

# General Rules for the Interpretation of the Harmonised System

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## **1 Introduction**

This document contains rules extracted from the *Republic of Ghana Harmonised System and Customs Tariff Schedules 2012* issued under the authority of the Ministry of Finance and Economic Planning.

The classification of goods in the Nomenclature shall be governed by the following principles:

## **2 Rule 1**

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 and, provided such headings or Notes do not otherwise require, according to the following provisions.

### **Explanatory Note**

- I. The Nomenclature sets out in systematic form the goods handled in international trade. It groups these goods in Sections, Chapters and sub-Chapters which have been given titles indicating as concisely as possible the categories or types of goods they cover. In many cases, however, the variety and number of goods classified in a Section or Chapter are such that it is impossible to cover them all or to cite them specifically in the titles.
- II. Rule 1 begins therefore by establishing that the titles are provided "for ease of reference only". They accordingly have no legal bearing on classification.
- III. The second part of this Rule provides that classification shall be determined :
  - a. according to the terms of the headings and any relative Section or Chapter Notes, and
  - b. where appropriate, provided the headings or notes do not otherwise require, according to the provisions of Rules 2, 3, 4, and 5.
- IV. Provision III a. is self-evident, and many goods are classified in the Nomenclature without recourse to any further consideration of the Interpretative Rules (e.g., live horses (heading 01.01), pharmaceutical goods specified in Note 4 to Chapter 30 (heading 30.06))
- V. In Provision III b., the expression "provided such headings or Notes do not otherwise require" is intended to make it quite clear that the terms of the headings and any relative Section or Chapter Notes are paramount, i.e., they are the first consideration in determining classification. For example, in Chapter 31, the Notes provide that certain headings relate only to particular goods. Consequently those headings cannot be extended to include goods which otherwise might fall there by reason of the operation of Rule 2 b).

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### 3 **Rule 2**

- a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.
- b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

#### **Explanatory Note - Rule 2 a - (Incomplete or unfinished articles)**

- I. The first part of Rule 2 a) extends the scope of any heading which refers to a particular article to cover 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.
- II. The provisions of this Rule also apply to blanks unless these are specified in a particular heading. The term "blank" means an article, not ready for direct use, having the approximate shape or outline of the finished article or part, and which can only be used other than in exceptional cases, for completion into the finished article or part (e.g. bottle preforms of plastics being intermediate products having tubular shape, with one closed end and one open end threaded to secure a screw type closure, the portion below the threaded end being intended to be expanded to a desired size and shape).

Semi-manufactures not yet having the essential shape of the finished articles (such as is generally the case with bars, discs, tubes, etc.) are not regarded as "blanks".

- III. In view of the scope of the headings of Sections I to VI, this part of the Rules does not normally apply to goods of these Sections.
- IV. Several cases covered by the Rule are covered in the General Explanatory Notes to Sections or Chapters (e.g., Section XVI, and Chapters 61, 62, 86, 87 and 90).

#### **Explanatory Note - Rule 2 a - (Articles presented unassembled or disassembled)**

- V. The second part of Rule 2 a) provides that complete or finished articles presented unassembled or disassembled are to be classified in the same heading as the assembled article. When goods are so presented, it is usually for reasons such as requirements or convenience of packing, handling or transport.

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- VI. This Rule also applies to incomplete or unfinished articles presented unassembled or disassembled provided that they are to be treated as complete or finished articles by virtue of the first part of this Rule.
- VII. For the purposes of this Rule, "articles presented unassembled or disassembled" means articles the components of which are to be assembled either by means of fixing devices (screws, nuts, bolts, etc.) or by riveting or welding, for example, provided only assembly operations are involved.

No account is to be taken in that regard of the complexity of the assembly method. However, the components shall not be subjected to any further working operation for completion into the finished state.

Unassembled components of an article which are in excess of the number required for that article when complete are to be classified separately.

- VIII. Cases covered by this Rule are cited in the General Explanatory Notes to Sections or Chapters (e.g., Section XVI, and chapters 44, 86, 87 and 89).
- IX. In view of the scope of the headings of Sections I to VI, this part of the Rule does not normally apply to goods of these Sections.

### **Explanatory Note - Rule 2 b - Mixtures and combinations of materials or substances**

- X. Rule 2 b) concerns mixtures and combinations of materials or substances, and goods consisting of two or more materials or substances. The headings to which it refers are headings in which there is a reference to a material or substance (e.g., heading 05.07 - ivory), and headings in which there is a reference to goods of a given material or substance (e.g., heading 45.03 – articles of natural cork). It will be noted that the Rule applies only to the headings or the Section or Chapter Notes do not otherwise require (e.g., heading 15.03 -lard oil, not ... mixed).

Mixtures being preparations described as such in a Section or Chapter Note or in a heading text are to be classified under the provisions of Rule 1.

- XI. The effect of the Rule is to extend any heading referring to a material or substance to include mixtures or combinations of that material or substance with other materials or substances. The effect of the Rule is also to extend any heading referring to goods of a given material or substance to include goods consisting partly of that material or substance.
- XII. It does not, however, widen the heading so as to cover goods which cannot be regarded, as required under Rule 1, as answering the description in the heading; this occurs where the addition of another material or substance deprives the goods of the character of goods of the kind mentioned in the heading.

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- XIII. As a consequence of this Rule, mixtures and combinations of materials or substances, and goods consisting of more than one material or substance, *prima facie* classifiable under two or more headings, must therefore be classified according to the principles of Rule 3.

### 4 **Rule 3**

When 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:

- a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items 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 or precise description of the goods.
- 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.
- c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

#### **Explanatory Note**

- I. This Rule provides three methods of classifying goods which, *prima facie*, fall under two or more headings, either under the terms of Rule 2 b) or for any other reason. These methods operate in the order in which they are set out in the rule. Thus Rule 3 b) operates only if Rule 3 a) fails in classification, and if both Rules 3 a) and b) fail, Rule 3 c) will apply. The order of priority is therefore (a) specific description; (b) essential character; (c) heading which occurs last in numerical order.
- II. The Rule can only take effect provided the terms of headings or Section or Chapter Notes do not otherwise require. For instance, Note 4 (8) to Chapter 97 requires that goods covered both by the description in one of the headings 97.01 to 97.05 and by the description in heading 97.05 shall be classified in one of the former headings. Such goods are to be classified according to Note 4 (B) to Chapter 97 and not according to this Rule.

#### **Explanatory Note - Rule 3 a)**

- III. The first method of classification is provided in Rule 3 (a), under which the heading which provides the most specific description of the goods is to be preferred to a heading ...mich provides a more general description.

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- IV. It is not practicable to lay down hard and fast rules by which to determine whether one heading more specifically describes the goods than another, but in general it may be said that:
- a. A description by name is more specific than a description by class (e.g., shavers and hair clippers, with self-contained electric motor, are classified in heading 85.10 and not in heading 84.67 as tools for working in the hand with self-contained electric motor or in heading 85.09 as electro-mechanical domestic appliances with self-contained electric motor).
  - b. If the goods answer to a description which more clearly identifies them, that description is more specific than one where identification is less complete.

Examples of the latter category of goods are:

- 1) 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.
- 2) 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.

- V. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items 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 or precise description than the others. In such cases, the classification of the goods shall be determined by Rule 3 b) or 3 c).

### Explanatory Note - Rule 3 b)

- VI. This second method relates only to:
- i. Mixtures
  - ii. Composite goods consisting of different materials
  - iii. Composite goods consisting of different components
  - iv. Goods put up in sets for retail sales.

It applies only *if* Rule 3 a) fails.

- VII. In all these cases the goods are to be classified as if they consisted of the material or component which gives them their **essential character**, insofar as this criterion is applicable.

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- VIII. The factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.
- IX. For the purposes of this Rule, composite goods made up of different components shall be taken to mean not only those in which the components are attached to each other to form a practically inseparable whole but also those with separable components, provided these components are adapted one to the other and are mutually complementary and that together they form a whole which would not normally be offered for sale in separate parts.

Examples of the latter category of goods are:

- 1) Ashtrays consisting of a stand incorporating a removable ash bowl.
- 2) 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.

As a general rule, the components of these composite goods are put up on a common packing.

- X. For the purposes of this Rule, the term "goods put up in sets for retail sale" shall be taken to mean goods which:
- a. consist of at least two different articles which are, *prima facie*, classifiable in different headings. Therefore, for example, six fondue forks cannot be regarded as a set within the meaning of this Rule;
  - b. consist of products or articles put up together to meet a particular need or carry out a specific activity; and
  - 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 term therefore covers sets consisting, for example, of different foodstuffs intended to be used together in the preparation of a ready-to-eat dish or meal.

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

- 1) (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 up in a carton:

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Classification in heading 19.02.

The Rule does not, however, cover selections of products put up together and consisting, for example, of:

- a can of shrimps (heading 16.05), a can of pate de foie (heading 16.02), a can of cheese (heading 04.06), a can of sliced bacon (heading 16.02), and a can of cocktail sausages (heading 16.01); or
- a bottle of spirits of heading 22.08 and a bottle of wine of heading 22.04.

In the case of these two examples and similar selections of products, each item is to be classified separately in its own appropriate heading.

- 2) Hairdressing sets consisting of a pair of electric hair clippers (heading 85.10), a comb (heading 96.15), a pair a 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.

- 3) 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 up in a case of plastic sheeting (heading 42.02) :

Classification in heading 90.17.

For the sets mentioned above, the classification is made according to the component, or components taken together, which can be regarded as conferring on the set as a whole its essential character.

- XI. This rule does not apply to goods consisting of separately packed constituents put up together, whether or not in a common packing, in fixed proportions for the industrial manufacture of, for example, beverages.

### **Explanatory Note - Rule 3 c)**

When goods cannot be classified by reference to Rule 3 a) or 3 b), they are to be classified in the heading which occurs last in numerical order among those which equally merit consideration in determining their classification.

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### 5 **Rule 4**

Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.

#### **Explanatory Note**

- I. This Rule relates to goods which cannot be classified in accordance with Rules 1 to 3 it provides that such goods shall be classified under the heading appropriate to the goods to which they are most akin.
- II. In classifying in accordance with Rule 4, it is necessary to compare the presented goods with similar goods in order to determine the goods to which the presented goods are most akin. The presented goods are classified in the same heading as the similar goods to which they are most akin.
- III. Kinship can, of course, depend on many factors, such as description, character, purpose.

### 6 **Rule 5**

In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein:

- a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This Rule does not, however, apply to containers which give the whole its essential character;
- b) Subject to the provisions of Rule 5 a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.

#### **Explanatory Note - Rule 5 a) - (Cases, boxes and similar containers)**

- I. This Rule shall be taken to cover only those containers which:
  - 1) are specially shaped or fitted to contain a specific article or set of articles, i.e., they are designed specifically to accommodate the article for which they are intended. Some containers are shaped in the form of the article they contain;
  - 2) are suitable for long-term use, i.e., they are designed to have a durability comparable to that of the articles for which they are intended. These containers also serve to protect the article when



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not in use (during transport or storage, for example). These criteria enable them to be distinguished from simple packings;

- 3) are presented with the articles for which they are intended, whether or not the articles are packed separately for convenience of transport. Presented separately the containers are classified in their appropriate headings;
- 4) are of a kind normally sold with such articles; and
- 5) do not give the whole its essential character.

II. Examples of containers, presented with the articles for which they are intended, which are to be classified by reference to this Rule are :

- 1) Jewellery boxes and cases (heading 71.13);
- 2) Electric shaver cases (heading 85.10);
- 3) Binocular cases, telescope cases (heading 90.05);
- 4) Musical instrument cases, boxes and bags (e.g., heading 92.02)
- 5) Gun cases (e.g., heading 93.03).

III. Examples of containers not covered by this Rule are containers such as silver caddy containing tea, or an ornamental bowl containing sweets.

### **Explanatory Note - Rule 5 b) - (Packing materials and packing containers)**

- I. This Rule governs the classification of packing materials and packing containers of a kind normally used for packing the goods to which they relate. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use, for example, certain metal drums or containers of iron or steel for compressed or liquefied gas.
- II. This Rule is subject to Rule 5 (a) and, therefore, the classification of cases, boxes and similar containers of the kind mentioned in Rule 5 a) shall be determined by the application of that rule.

## **7 Rule 6**

For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those sub-headings and any related Subheading Notes and, mutatis mutandis, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

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### **Explanatory Note**

Rules 1 to 5 above govern, *mutatis mutandis*, classification at subheading levels within the same heading.

For the purposes of Rule 6, the following expressions have the meanings hereby assigned to them:

"subheadings at the same level: one-dash sub-headings (level 1 )or two-dash subheadings (level 2)

Thus, when considering the relative merits of two or more one-dash subheadings within a single heading in the context of Rule 3 a), their specificity or kinship in relation to a given article is to be assessed solely on the basis of the texts of the competing one-dash subheadings. When the one-dash subheading that is most specific has been chosen and when that subheading is itself subdivided, then, and only then, shall the texts of the two-dash subheadings be taken into consideration for determining which two-dash subheading Should be selected.

"unless the context otherwise requires": except where Section or O1apter Notes are incompatible with subheading texts or Subheading Notes.

This occurs, for example, in O1apter 71 where the scope assigned to the term "platinum" in chapter Note 4 (B) differs from that assigned to "platinum" in Subheading Note 2. for the purpose of interpreting subheadings 71 10.11 and 7110.19,therefore, Subheading Note 2 applies and Chapter Note 4 (B) is to be disregarded.

(III) The scope of a two-dash subheading shall not extend beyond that of the one-dash subheading to which the two-dash subheading belongs; and the scope of a one-dash subheading shall not extend beyond that of the heading to which the one-dash subheading belongs.