

KACT 2017

Tariff and Trade Affairs Track

**Harmonized System
(Day 2)**

Session I: Program Overview & Introduction



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Session I: Program Overview & Introduction



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Session VI

Application of GIR 1

Session VI: Application of GIR 1

Step by step process:

- Identify the goods
- Identify the possible Chapters
- Consider the appropriate Section and Chapter Notes
- Locate the appropriate headings
- [Classify at subheading level]

Session VI: Application of GIR 1

First step:

Rule 0

W I I

Session VI: Application of GIR 1

First step:

- Identify the goods as presented
- Full description
- Taking into account the HS provisions

Session VI: Application of GIR 1

Rule 0

Description of the goods

Wheat flour

Vegetable oils

Salt

Wheat gluten

Mineral salts

Oleoresins

Colorant



Session VI: Application of GIR 1

Description of the goods

NOODLES !!!



Session VI: Application of GIR 1

Description of goods

A consignment of drums

Session VI: Application of GIR 1

Description of goods

What are the goods? What type of drums?



- Brake drums for bikes, cars, other vehicles
- Containers for materials, for compressed or liquefied gas
- Parts for machinery, plant – industrial, agricultural, etc.
- Musical instruments bass, side drums, toys
- For photocopying machinery
- Weight drums for clocks

Session VI: Application of GIR 1

GIR 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.*

Session VI: Application of GIR 1

Example (1)

Chapter 22: Beverages, spirits and vinegar

Also:

- ✓ ice and snow (22.01)
- ✓ denatured ethyl alcohol (22.07)



Session VI: Application of GIR 1

Example (2)

Chapter 28:

Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes

Also:

- ✓ organic compounds of mercury (28.52)
- ✓ liquid or compressed air (28.53)

But not: pure sodium chloride (25.01)

Session VI: Application of GIR 1

Example (3)

Section XV: Base metals and *articles of base metals*

But not:

- ✓ Base metal clad with precious metal (Chapter 71)
- ✓ Vehicles, vessels, aircraft (Section XVII)
- ✓ Toys or sports requisites (Chapter 95)

Session VI: Application of GIR 1

TITLES

“for ease of reference only”

- ✓ Sections, Chapters and sub-Chapters
- ✓ Categories or types of goods
- ✓ Not possible to cite them all
- ✓ No legal bearing on classification

Session VI: Application of GIR 1

TITLES

“for ease of reference only”

Example

Chapter 1: Live animals

What about *live fish*?



Session VI: Application of GIR 1

For legal purposes:

Terms of:

- ✓ Headings
- ✓ And
- ✓ Any relative Section or Chapter Notes

Session VI: Application of GIR 1

“Terms of the headings”

What it is? *Flour*

What is it made from? *Meat*

What can it be used for? *Human consumption or otherwise*

02.10	<u>edible</u> flours and meals of meat or meat offal
23.01	flours, meals and pellets, of meat or meat offal, (...) <u>unfit for human consumption</u>

Session VI: Application of GIR 1

“Notes”

- ✓ Located at the beginning of the Section or Chapter
- ✓ Not all Sections and Chapters do have Notes
- ✓ Do not confuse with Explanatory Notes!

Session VI: Application of GIR 1

Nature of Section or Chapter Notes:

- ✓ Restricting the scope
- ✓ Expanding the scope
- ✓ Definitions
- ✓ Applicable to the whole Nomenclature or restricted to a specific Section, Chapter or heading

Session VI: Application of GIR 1

Notes restricting the scope

- ✓ Exclusion Notes
- ✓ *'This Section/Chapter does not cover: (...)'*

Session VI: Application of GIR 1

Notes restricting the scope

Note 2 to Chapter 84:

- ✓ 2nd paragraph: *“Heading 84.19 does not, however, cover (...)”*
- ✓ 3rd paragraph: *“Heading 84.22 does not cover (...)”*
- ✓ 4th paragraph: *“Heading 84.24 does not cover (...)”*

Session VI: Application of GIR 1

Notes restricting the scope

Note 5 (D) to Chapter 84:

✓ *“Heading 84.71 does not cover the following when presented separately (...)”*

Note 7 to Chapter 90:

✓ *“Heading 90.32 applies only to (...)”*

Session VI: Application of GIR 1

Notes expanding the scope of a heading or of a term:

- ✓ Note 2 to Chapter 7: “the word ‘vegetables’ includes”
- ✓ Note 1 to Chapter 40: “the expression ‘rubber’ means”

Session VI: Application of GIR 1

Notes - definitions

For the whole Nomenclature:

- ✓ Note 1 to Chapter 39: “Throughout the Nomenclature the expression ‘plastics’ means (...)”
- ✓ Note 1 to Chapter 40: “(...) throughout the Nomenclature, the expression ‘rubber’ means (...)”

Session VI: Application of GIR 1

Notes – definitions

Heading 84.70: “pocket-size data recording, reproducing and displaying machines with calculating functions”

What is “*pocket-size*”?



Session VI: Application of GIR 1

Notes – definitions

Related to a specific Section, Chapter, heading or subheading

Heading: Note 8 to Chapter 84:

“For the purposes of heading 84.70, the term ‘pocket-size’ applies only to machines (...)”

Session VI: Application of GIR 6

What about the following?

- Subheading 8527.12: pocket-size radio cassette-players
- Note 8 to Chapter 84 applicable?
- No, restricted to heading 84.70
- Subheading Note 1 to Chapter 85



Session VI: Application of GIR 1

Notes – definitions

Related to a specific Section, Chapter or heading or subheading:

Subheading Note 2 to Chapter 84:

“For the purposes of subheading 8471.49, the term ‘systems’ means (...)”

Session VI: Application of GIR 1

Notes – classification principles

Priority classification

“are to be classified in heading [...] and in no other heading”

“subheading xxxx.xx takes precedence over all other subheadings of heading (...)”

Session VI: Application of GIR 1

Notes – classification principles

Priority classification (examples):

- ✓ Note 4 to Chapter 30
- ✓ Note 9 (D) to Chapter 84
- ✓ Subheading Note 1 to Chapter 20

Session VI: Application of GIR 1

Notes – classification principles

Parts:

- ✓ Note 2 to Chapter 82
- ✓ Note 1 to Chapter 83
- ✓ Note 2 to Section XVI
- ✓ Note 2 to Chapter 90

Session VI: Application of GIR 1

Rules 2 to 6 applicable?

Certain conditions

- a) And
- b) Provided such headings or Notes do not otherwise require
- c) According to the following provisions

Session VI: Application of GIR 1

“Provided such headings or Notes do not otherwise require”

Example (1)

- ✓ Rule 2 (b) => mixtures are included in headings referring to a material or substance

However:

- ✓ heading 33.02: **mixtures** of odoriferous substances

Session VI: Application of GIR 1

“Provided such headings or Notes do not otherwise require”

Example (2)

✓ Rule 2 (a) => unassembled

✓ Chassis **fitted** with engines (heading 87.06)



Session VI: Application of GIR 1

Finally:

Rule 1 is

ALLWAYS APPLICABLE

Session VI: Application of GIR 1

Q and A

Coffee/Tea

Networking Break

Session VII

The Application of General Interpretative Rule 3

Session VII - GIR 3

Mechanics of classification

Two separate stages:

- identification of the goods
- the use of the Interpretative Rules

Session VII - GIR 3

The steps:

- 1 : Identify the goods → **WII**
- 2 : Identify the possible Chapters
- 3 : Locate the appropriate heading(s)
- 4 : Consider the relative Section and Chapter Notes
- 5 : What Rules to be applied in addition to GIR 1
- 6: Classify at the 6-digit level

Session VII - GIR 3

GIR 2 (b):

The classification of goods **consisting of more than one material or substance** shall be **according to the principles of Rule 3.**

Session VII - GIR 3

GIR 3: three methods of classification:

(a) Most specific description Rule 3 (a)

(b) Essential character Rule 3 (b)

(c) Heading which occurs
last in numerical order Rule 3 (c)

To be operated in order: (a), (b), (c)

Session VII - GIR 3

GIR 3 (a) – Most specific description

- ✓ Hard and fast rules?
- ✓ Description by name more specific than by class
(also EU Court ruling C-297/13, consideration 44:
“heading 84.73 = generic”)
- ✓ Clear identification vs less complete identification

Session VII - GIR 3

GIR 3 (a) – Most specific

Examples:

- ✓ **Tufted textile carpet**, identifiable as for use in a car: “carpets” (57.03) more specific than “accessories” (87.08)
- ✓ **Unframed safety glass** identifiable as part of aeroplanes: “safety glass” (70.07) more specific than “parts” (88.03)

Session VII - GIR 3

GIR 3 (a) - specific description

When two or more headings **each** refer to:

- ✓ **part only of the materials or substances** contained in mixed or composite goods; or
- ✓ **part only of the items in a set put up for retail sale**
- ✓ headings are as **equally specific** in relation to those goods, even if one of them gives a more complete or precise description of the goods

Session VII - GIR 3

Due to this wording :

- **Mixtures, sets and composite goods** are excluded from the provisions of GIR 3 (a)

Consequently:

- Classification according to GIR 3 (b) or 3 (c)

Session VII - GIR 3

GIR 3 (b) 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 sale

Session VII - GIR 3

GIR 3 (b):

- Classification according to **essential character**
- Classified *as if they consisted* of the material or component which gives them their essential character

Session VII - GIR 3

Essential character :

- Nature of the material or component
- Bulk
- Quantity
- Weight
- Value
- Role in relation to use of the goods
- Function

Session VII - GIR 3

Essential character (example 1):

- Mosquito net of a warp knitted fabric composed of polyester multifilaments (100 %), impregnated with an insecticide (55 mg/m² of deltamethrin), which repels or kills mosquitos and other insects
 - Heading 38.08: insecticides
- or
- Heading 63.04: other furnishing articles, of textile materials

Session VII - GIR 3

Essential character (example 1):

Function of the mosquito net provides the whole its essential character:

- Provides protection and shields user from any contact with insects
- No protection possible without the net
- Marketed as mosquito net, not as insecticide

Session VII - GIR 3

Essential character (example 2) - EU Regulation 2016/614

- ✓ Hobby greenhouse comprising a frame made of steel, covered on all sides by a flexible plastic sheeting with a rolling opening in the front
- ✓ Essential character: the constructive element (metal frame and shelves)
- ✓ Role in relation to the product



Session VII - GIR 3

Essential character (example 3)

- “Smart watch”
- Receiving and transmitting data
- Communicate wirelessly with other devices
- Capable of performing a variety of functions including:
 - Displaying time and date
 - Recording and reproducing sound
 - Taking and recording digital photographs and videos
 - Alarm, timer, and stopwatch
 - Pedometer
 - Making and receiving phone calls over the host device
 - Receiving and viewing e-mails
 - Receiving and sending SMS messages
 - Operating the music player functions



Session VII - GIR 3

Essential character (example 3)

- Smart watch
- GIR 3 (b): function
- 8517.62: Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus



Session VII

Composite goods

Session VII - Composite goods

GIR 3 (b) refers to :

- Mixtures
- **Composite goods**
- Goods put up in sets

What are composite goods?

Session VII - Composite goods

Composite goods are goods consisting of:

- Different materials; or
- Made up of different components

This is the legal frame work!

Session VII - Composite goods

The Explanatory Note to GIR 3 (b)

Composite goods are (1):

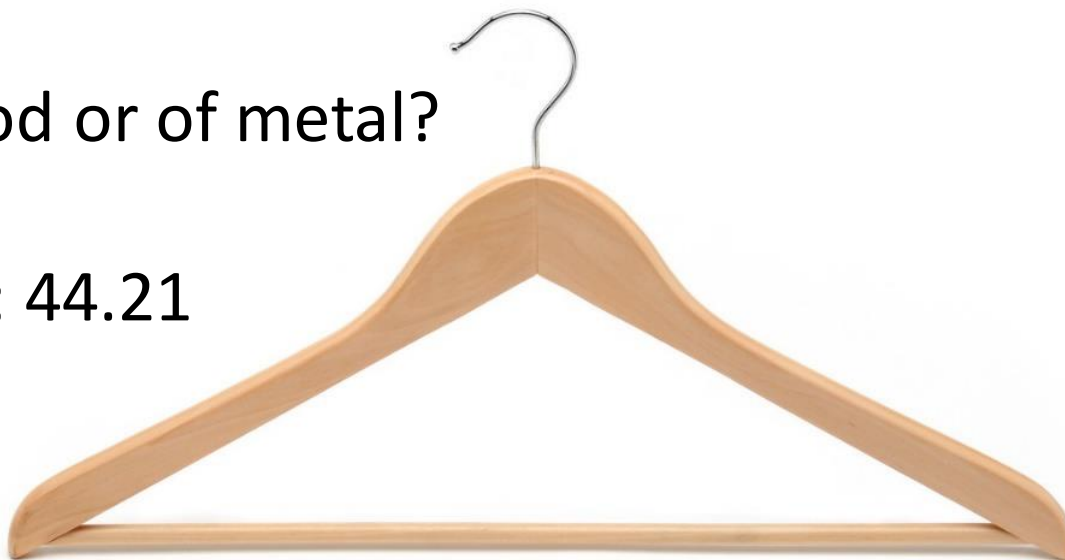
- Goods in which the components are attached to each other **to form a practically inseparable whole**

Note : The Explanatory Notes are not part of the legal frame work!

Session VII - Composite goods

Example (1):

- Clothes hangers of wood with metal hook
- Function of wood or of metal?
- Article of wood: 44.21



Session VII - Composite goods

Example (2):

- Hollow profile of plastics or rubber with magnetic strip inside
- Role of profile or strip?
- Permanent magnet: 85.05



Session VII - Composite goods

Example (3):

- Cartridge for an electronic cigarette consisting of a plastic mouthpiece and a plastic tube containing an absorbing material saturated with a solution consisting of propylene glycol, glycerol, nicotine and ethyl alcohol: 38.24



Session VII - Composite goods

Composite goods are (2):

- Those with **separable components**, provided:
 - ✓ these components are adapted one to the other;
 - ✓ are mutually complementary;
 - ✓ together they form a whole which would not normally be offered for sale in separate parts

Session VII - Composite goods

Separable goods

Example (1)

- Chocolate confectionery (milk chocolate in a sugar shell), put up in two packets, each with a net weight of 45 g, presented in a plastic container, as composite goods for retail sale



Session VII - Composite goods

Separable goods

Example (2)

A good consisting of a selection of spices, seeds, herbs, fruit, salt and seasonings, put up in hourglass-shaped glass bottles, each containing two different products



Session VII - Sets

GIR 3 (b) refers to :

- Mixtures
- Composite goods
- **Goods put up in sets for retail sale**

What are sets?

Session VII - Sets

Is this a set?



Session VII - Sets

EN to GIR 3 (b) :

- At least two different articles which are, *prima facie*, classifiable in different headings
- Put up together to meet a particular need or carry out a specific activity
- Put up in a manner suitable for sale directly to end users without repacking

Session VII - Sets

Is this a set?

NO!



Session VII - Sets

Is this a set?

- ✓ Digital camera (14 MP) integrated on to a remote-controlled four-rotor helicopter
- ✓ Radio remote controller
- ✓ Wi-Fi range extender
- ✓ Mobile telephone mount
- ✓ Presented in a single cardboard



Session VII - Sets

Is this a set?

Yes!

CO 8525.80/3



Session VII – GIR 3

The provisions of Rule 3 do not apply when
Rule 1 is applicable!

Session VII – GIR 3

Situations where Rule 1 applies :

- Section or Chapter Note
- Heading text

Session VII - GIR 3

References to mixtures and composite goods at Chapter or heading level

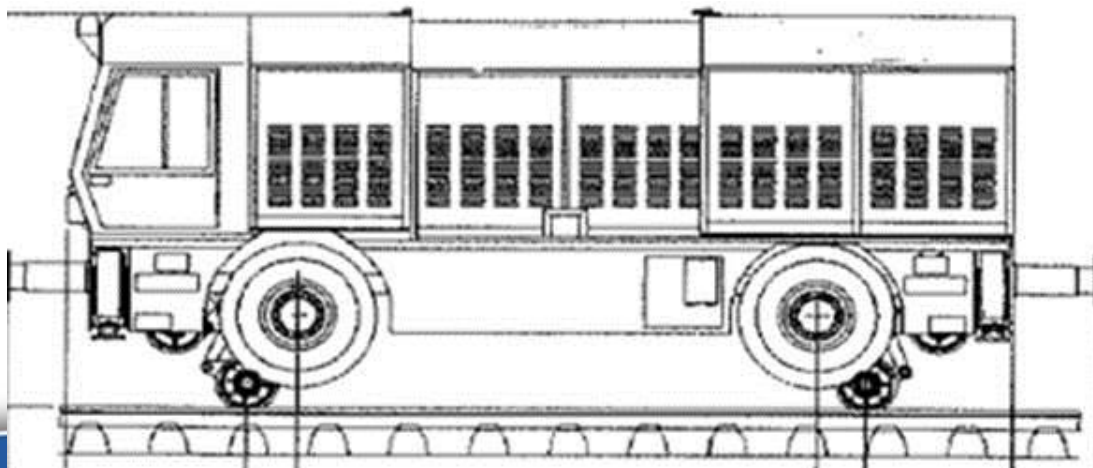
- Mixtures of nuts or dried fruits (08.13)
- Note 2 to Chapter 16 (preparations containing meat, fish, etc.)
- Heading 27.10 (preparations containing petroleum oils)
- Note 3 to Chapter 56 (felt and nonwovens combined with plastics or rubber)
- Note 2 to Chapter 59 (textile fabrics combined with plastics)

Session VII - GIR 3

Essential character: ??

Note 4 (a) to Section XVII
(vehicles specially constructed to travel on both
road and rail)

- Classified under the appropriate heading of Chapter 87



Session VII - GIR 3

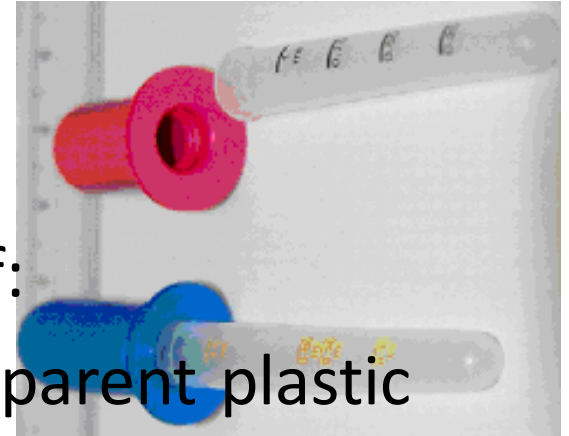
- In many cases not possible to determine the “essential character”
- Application of Rule 3 (c):
 - ✓ Last heading in numerical order
 - ✓ Meriting equal consideration

Session VII - GIR 3

Example (1)

Graduated dropper tubes, made up of:

- a tubular dosage measure of transparent plastic material; and
- a cylindrical teat of vulcanised rubber other than hard rubber



Classification according to GIR 3 (c): 40.14

Session VII – GIR 3

Example (2) :

Application of GIR 3 (c) within heading 85.28

- Colour desktop LCD projector
- May be connected to:
 - ✓ an adp machine
 - ✓ a videocassette recorder or
 - ✓ a laser disc player

Session VII – GIR 3

Finally, what about the following?

Article consisting of:

- a plastic lavatory seat with cover
- an electro-mechanical movable spr
- an electrothermic device



The product performs several functions such as heating water, spraying water and drying the area
(Picture for reference only)

Session VII

GIR 3

Any questions?

After lunch break

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The role of Customs laboratory in the
classification process