



HTS/ECCN Workshop

Braumiller Consulting Group
Eliza Seibert, Sr. Trade Advisor

Braumiller Law Group
Megan Mohler, Sr. Associate Attorney

February 5, 2025



> Agenda (HTS)

- Notoriously Difficult Items to Classify and Why
 - General Use Items, Sets, Base Metal Mountings & Fittings, etc.
- HTS Tariff Engineering
- Recordkeeping
- Key Takeaways
- Questions
- Break



Tricky Items to Classify

© 2025 Braumiller Law Group PLLC Any copying or distribution is prohibited.

> General Use Items



Fasteners

Screws, bolts, nails



Gaskets



Base Metal Articles

General Use Items: Fasteners

Fasteners are generally classified under Heading 7318 (Screws, bolts, nuts, coach screws, rivets, cotters, cotter-pins, washers, and similar articles, of iron or steel).

Challenges often arise when determining if the item qualifies as a fastener or if it should be classified as a "part of" a larger assembly or machine.

Why not "parts of"

Most fasteners can be used with multiple machines across a variety of industries

"Parts of," per GRI 1 and 3b, mean that the parts are specific to the larger product they are a part of UNLESS, the fastener is specific or specialized.

What is the difference between a bolt and screw?

A There is no difference!

B A screw is used with a nut, a bolt is not

C A bolt is used with a nut, a screw is not

D A bolt doesn't have threads, a screw does

None of the above

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

What is the difference between a bolt and screw?

- A There is no difference! 0%
- B A screw is used with a nut, a bolt is not 0%
- C A bolt is used with a nut, a screw is not 0%
- D A bolt doesn't have threads, a screw does 0%
- None of the above 0%

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

What is the difference between a bolt and screw?

- A There is no difference! 0%
- B A screw is used with a nut, a bolt is not 0%
- C A bolt is used with a nut, a screw is not 0%
- D A bolt doesn't have threads, a screw does 0%
- None of the above 0%

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

> General Use Items: Fasteners

- *Rocknel Fastener, Inc. v. United States:*
- Case involving classification of fasteners designed for automotive applications and externally threaded with hexagonal heads.
- CBP HTS: 7318.15.80 “Other screws, with a diameter of 6 mm or more”
- Importer HTS: 7318.15.20 “Bolts and bolts and their nuts or washers entered or exported in the same shipment”
- Holding: CIT upheld CBP’s classification, relying on ANSI definitions:
 - A **bolt** is intended to be used with a nut or pre-threaded hole to clamp two unthreaded components together.
 - A **screw** is designed to be inserted into a pre-threaded hole or to form its own threads.
- The fasteners in question, while resembling bolts, functioned as screws because they were designed to be used in pre-threaded holes without the need for a nut.
- The court emphasized that the terms “bolt” and “screw” are mutually exclusive for tariff classification purposes. The fasteners were conclusively determined to meet the criteria of screws, not bolts.

General Use Items:

Fasteners

Scenario

- Threaded, headless fasteners known as studs, designed for use in various applications, including as anchoring components in concrete

Challenge

- HTS 7318.15.50 "Other threaded articles, not elsewhere specified, of base metal" OR
- HTS 7316.00.0000, e.o. nominee for: "Anchors, grapnels and parts thereof, of iron or steel"

Rationale

- A stud is a threaded, headless fastener with threading that often extends along its entire length, which makes it distinguishable from other types of fasteners
- Primarily used to secure components in pre-threaded holes or as anchors in various assemblies, making them consistent with the definition of studs
- The absence of a head and the presence of threading over the entire length disqualified the fasteners from being classified under other headings like bolts or anchors.

General Use Items: Fasteners

Scenario

- Belt fasteners specifically designed to join conveyor belts used in industrial machinery – integral to operation

Challenge

- Classification under Heading 7317 for “nails, tacks, staples, and similar articles” OR
- Heading 8431 for “parts of machinery for use with machinery headings 8425 to 8430, including conveyors”

Rationale

- The fasteners were specifically designed for industrial machinery and were essential for the operation of conveyor systems.
- Since the fasteners were integral to the operation of machinery (specifically conveyors), they were more appropriately classified under Heading 8431 as parts of machinery.
- The court noted that while the fasteners could superficially resemble staples or similar items, their specialized design for use in conveyors disqualified them from classification under Heading 7317

> General Use: Gaskets

- Parts of machines
 - If specifically designed for particular machines, classified as parts of those machines.
 - Detailed product descriptions and intended use are crucial for accurate classification.
- Based on material composition
 - When made of specific materials, the material composition determines classification.
 - Understanding the composition and function of each material component is vital for accurate classification.
- Heading 8484
 - “Gaskets and similar joints metal sheeting combined with other materials or of two or more layers of metal; sets or assortments of gaskets and similar joints, dissimilar in composition, put up in pouches, envelopes or similar packings; mechanical seals”
 - Example: rubber gasket surrounded by metal sheeting



> General Use: Gaskets

- Excluded from classification as Vehicle Parts
 - Certain notes in the HTSUS can exclude items from being classified as parts, even if they are identifiable as such.
 - Material composition and specific legal notes play a crucial role in classification decisions.
- Gaskets in composite machines
 - If suitable for use solely or principally with a composite machine, classified as parts of the machine, with the classification aligning with the machine's principal function.
 - If not specific to a machine and are general-purpose items, classification may rely on their material composition, such as rubber (4016.93.10) or plastic (3926.90.4590)





> Gaskets

Description:

Gaskets used in composite machines that perform multiple functions, such as machines combining pumping and valve operations.

Classification Challenge:

Determining the appropriate classification for gaskets used in composite machines, considering whether they should be classified:

1. As parts of the machine, based on its principal function, OR
2. According to the material composition if not specific to the machine?

> Gaskets

If the gaskets are suitable for use solely or principally with a composite machine, they are classified as **parts of the machine**, with the classification aligning with the machine's principal function.

For example:

- **Composite Machine's Principal Function as a Pump for liquids:**
 - the gaskets may be classified under **HTS Heading 8413.91**, which provides for "Parts of pumps for liquids."
- **Composite Machine's Principal Function as a Valve, controlling flows of liquids of gases:**
 - the gaskets may be classified under **HTS Heading 8481.90**, which provides for "Parts of taps, cocks, valves, and similar appliances."

If the gaskets are not specific to a machine and are general-purpose items, their classification may rely on their material composition, such as:

- **Rubber:** HTS Heading **4016.93.10** ("Gaskets, washers and other seals: Gaskets").
- **Plastic:** HTS Heading **3926.90.4590** ("Other articles of plastics...: Gaskets, washers and other seals: Other").

> Sets



> Sets: Dinnerware

Scenario

- A boxed set contains:
 - 4 ceramic dinner plates, 4 ceramic salad plates, 4 ceramic soup bowls, 4 ceramic mugs
 - 4 stainless-steel forks with plastic handles, 4 stainless-steel spoons with plastic handles, 4 stainless-steel knives with plastic handles
 - 4 glass tumblers.
- Each item is individually wrapped but packaged together for retail sale. The value distribution is as follows:
 - Ceramic items: 60%
 - Flatware: 25%
 - Glass tumblers: 15%

Rationale

- **Application of GRI 3(b):**
 - The items in the set are prima facie classifiable under different headings:
 - Ceramic items (plates, bowls, mugs): Heading 6912
 - Flatware (forks, spoons, knives): Heading 8215
 - Glass tumblers: Heading 7013
 - Under GRI 3(b), goods put up in sets for retail sale are classified based on the component that provides the "essential character."
 - The ceramic items represent the majority value (60%) and serve the primary function of the set (serving food), thus imparting the essential character.



> Sets Quiz

A gourmet gift basket contains:

- Uncooked spaghetti
- Parmesan Cheese
- Tomato Sauce
- Pepperoni

The basket is sold as a unit for \$50. The value breakdown is as follows:

- Spaghetti: \$10
- Parmesan Cheese: \$15
- Tomato Sauce: \$10
- Pepperoni: \$15

Question: Which Heading is classification proper under?

- A. Heading 1902
- B. Heading 0406
- C. Heading 2103
- D. Heading 1602

Which Heading is classification proper under for the gourmet gift basket?

A Heading 1902

B Heading 0406

C Heading 2103

D Heading 1602

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

Which Heading is classification proper under for the gourmet gift basket?

A Heading 1902

0%

B Heading 0406

0%

C Heading 2103

0%

D Heading 1602

0%

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

Which Heading is classification proper under for the gourmet gift basket?

A Heading 1902

0%

B Heading 0406

0%

C Heading 2103

0%

D Heading 1602

0%

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

> Sets Quiz

Answer: What is the correct classification for the set?

- A. Heading 1902
- B. Heading 0406
- C. Heading 2103
- D. Heading 1602

Application of GRI 3(b):

- The set comprises items classifiable under different headings:
 - Spaghetti: Heading 1902
 - Parmesan Cheese: Heading 0406
 - Tomato Sauce: Heading 2103
 - Pepperoni: Heading 1602
- According to GRI 3(b), when goods are put up in sets for retail sale and cannot be classified by reference to GRI 3(a), they shall be classified as if they consisted of the material or component which gives them their essential character.
- In this scenario, although the spaghetti is not one of the most expensive items, the set will be used to make a spaghetti meal. Thus, considering the nature of the products and consumer perception, the spaghetti imparts the essential character of this set.

➤ Sets: Tool Sets w/Carrying Case

Tool Set:

- 9-inch torpedo level (Heading 9031)
- 8-ounce hammer (Heading 8205)
- 6-inch long nose pliers (Heading 8203)
- 6-inch adjustable wrench (Heading 8204)
- 12-foot tape measure (Heading 9017)
- 6-in-1 screwdriver (with a removable bit holder and two double-ended bits) (Heading 8205)

Carrying Case:

- Constructed with outer surface of 100% polyester textile material
- Designed to provide storage, protection, portability, and organization for the tools and related articles.
- Textile-lined interior storage compartment not fitted or shaped for a particular article or set of articles, a top zipper closure, and two carrying handles.
- Exterior has eight open pockets, three mesh pockets, and one pocket with a hook-and-loop closure.
- Measures approximately 10.5" x 5" x 7.75"

Application of GRI 3(b):

- Under GRI 3(b), goods put up in sets for retail sale are classified based on the component that provides the "essential character."
- Here, the tools collectively provide the essential character of the set.

HTSUS Heading 8206:

- Since the set includes tools from headings 8203, 8204, and 8205, it falls under heading 8206.
- Heading 8206 covers "tools of two or more of the headings 8202 to 8205, put up in sets for retail sale."

Determination of Duty Rate:

- Per the notes for heading 8206, the duty rate for the set is determined based on the article in the set subject to the highest rate of duty.
- Here, the utility bag is classifiable under subheading 4202.92.9026, HTSUS, which carries a duty rate of 17.6% ad valorem → the entire set is subject to a duty rate of 17.6% ad valorem.



➤ Base Metal Mountings & Fittings

A modular closet storage system uses top tracks and hanging standards.....

Are the mountings properly classifiable as:

“base metal mountings and fittings suitable for buildings, of iron or steel”

OR

“parts of furniture, other?”



A modular closet storage system uses top tracks and hanging standards. Are the mountings properly classifiable as:

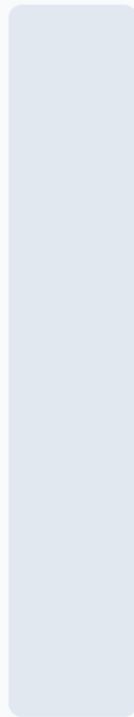
A base metal mountings and fittings suitable for buildings, of iron or steel

B parts of furniture, other

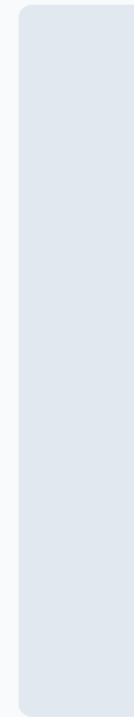
Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

A modular closet storage system uses top tracks and hanging standards. Are the mountings properly classifiable as:

0%



0%



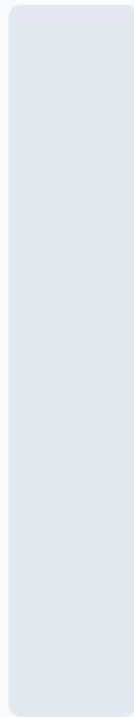
A base metal mountings and fittings suitable for buildings, of iron or steel

Parts of furniture, other

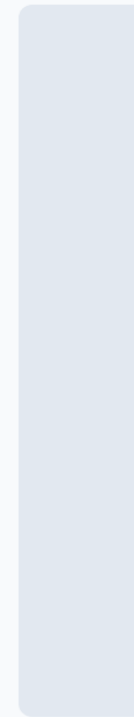
Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

A modular closet storage system uses top tracks and hanging standards. Are the mountings properly classifiable as:

0%



0%



A base metal mountings and fittings suitable for buildings, of iron or steel

Parts of furniture, other

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

> Base Metal Mountings & Fittings

Answer:

- Parts of furniture, other!
- HTS Subheading **9403.90.80**
- *Source: The Container Store v. United States*

- CBP argued for classification of the closet system top tracks and hanging standards to be classified as base metal mountings and fittings suitable for buildings, of iron or steel (**8302.41.60**)
- The plaintiff, however, argued for classification under parts of furniture, other.
- CAFC ruled in favor of The Container Store, holding that:
 1. Unit Furniture: The closet system was determined to be "unit furniture," which is specifically designed to be assembled and disassembled.
 2. Primary Use: The top tracks and hanging standards were integral parts of the modular furniture system, not general-purpose mountings or fittings.

> Base Metal Mountings & Fittings

Scenario:

- Motor vehicle mounting brackets under consideration include:
 - hose assembly bracket
 - pressure tank bracket
 - bracket assembly for transmission
 - jack mounting bracket
 - instrument side mounting bracket
- All of the brackets are made of iron or steel.



> Base Metal Mountings & Fittings

Classification & Rationale:

- CBP classified all items under HTS **8302.30.30**, "Other mountings, fittings, and similar articles suitable for motor vehicles, of iron or steel"
- CBP concluded:
 - The brackets fell under the definition of "**parts of general use**," as defined by Note 2 to Section XV of the HTSUS.
 - Because the brackets were not integral to the vehicle's operation but served as general-purpose fittings, they were **excluded from Chapter 87**, which covers motor vehicle parts.
 - Their **design specifically for motor vehicles** justified classification under 8302.30.30, which explicitly covers such articles.





> **Base Metal Mountings & Fittings**

- GRI 1**
 - The initial heading should match the item's description.
- GRI 3(b)**
 - For mixed-use items, essential character determines classification.
- GRI 6**
 - When specific subheadings are involved, select based on item design and primary function.

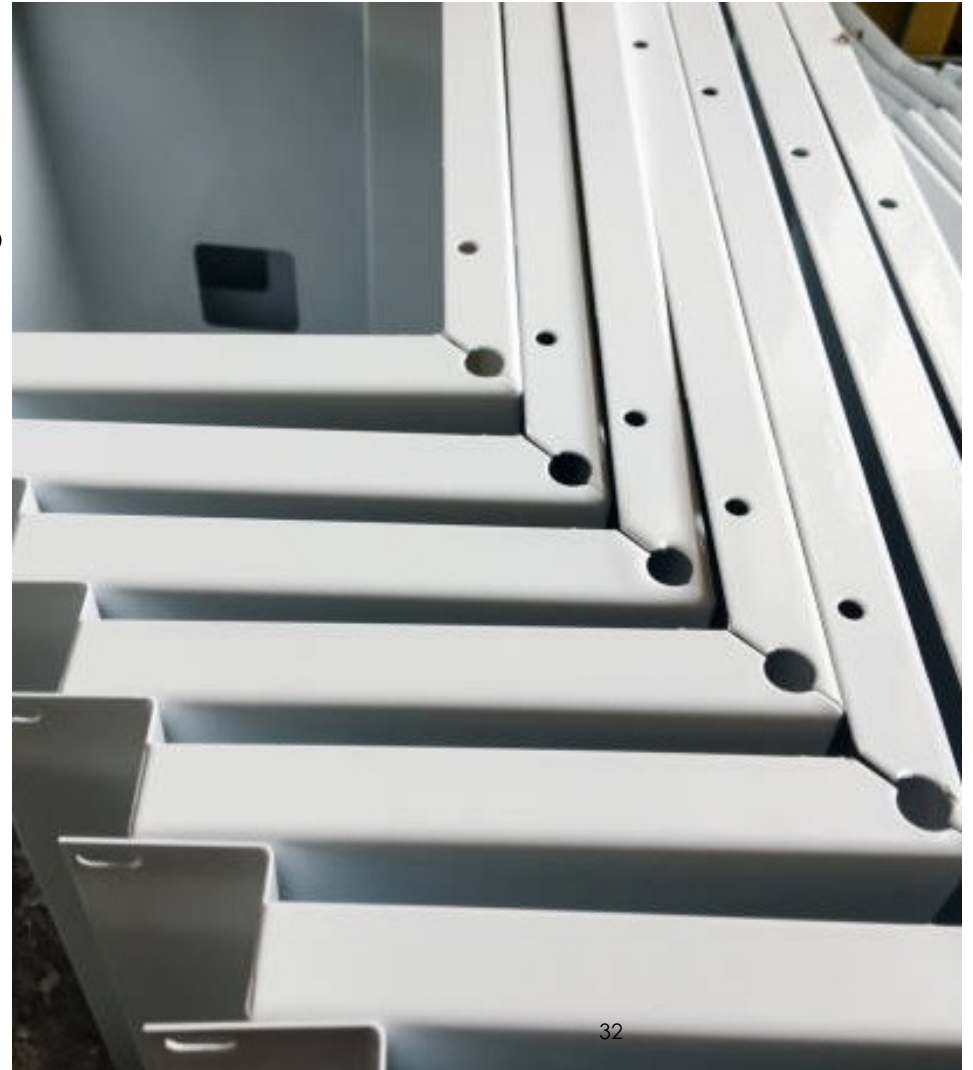
> Base Metal Mountings & Fittings

Complexities:

- Classification often depends on the item's primary use and integration within a larger system
- Whether it is general use or serving a specific design function
- Whether the purpose decorative or integral

Key Resources:

CBP Informed Compliance Publication: *"What Every Member of the Trade Community Should Know About: Base Metal Mountings and Fittings"*





> Electric Bicycles

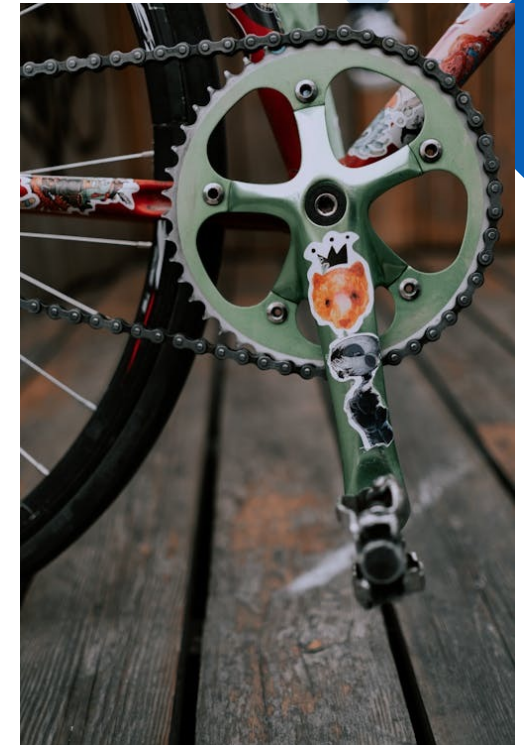
Several rulings support the classification of e-bikes as “motorcycles” classified in Heading 8711 because they have a motor.

Where would you classify parts of an electric bicycle, such as bike chains, bike lights, or bike tires?

> Electric Bicycles

7315		Chain and parts thereof, of iron or steel:
		Articulated link chain and parts thereof:
7315.11.00		Roller chain
	05	For motor vehicles
		Other:
		Of not over 50 mm pitch and containing more than 3 parts per pitch:
	10	Bicycle chains
	45	Other

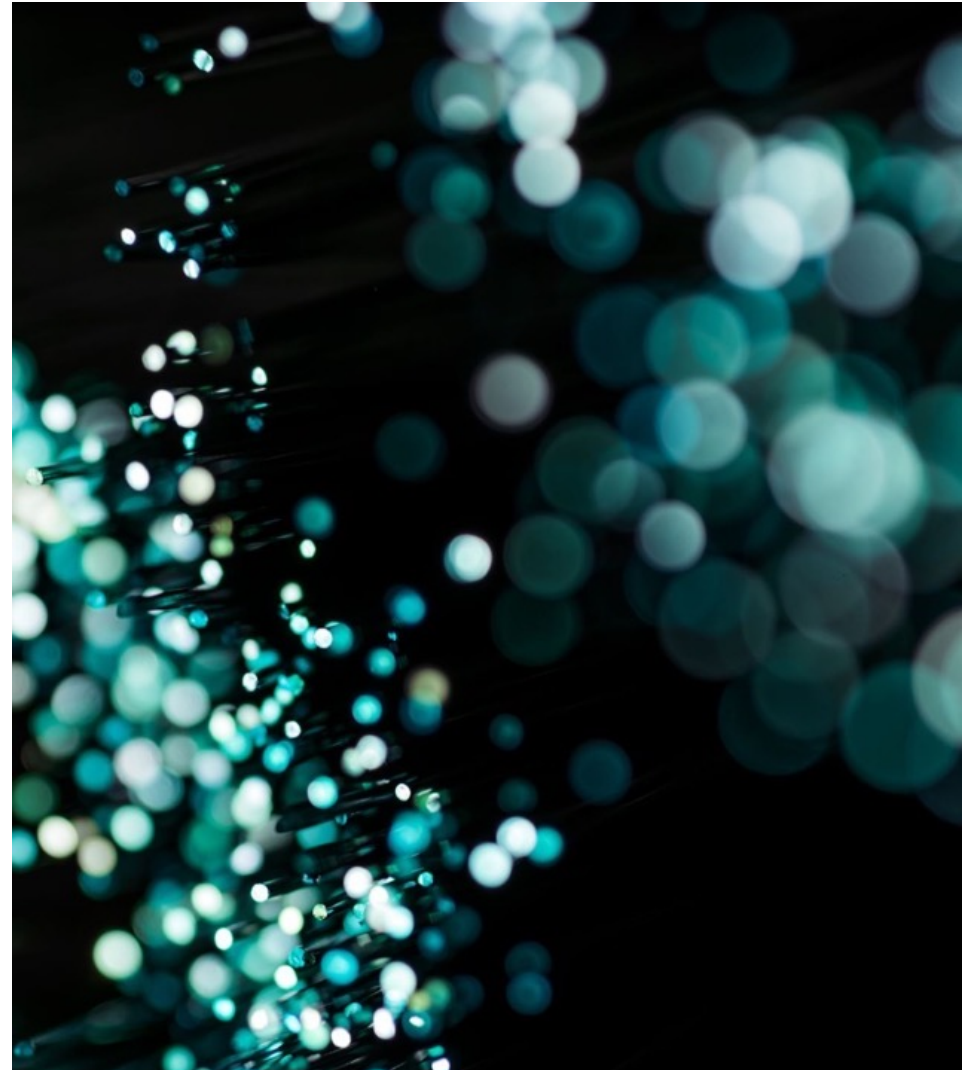
Can you classify parts of a good in a provision where the final good is not classified there?



> Tariff Engineering

What is it?

- Advance design considerations meant to lower duty impact by meeting certain classification parameters of lower duty rate provisions (This is legal!!)
- Often a decision that needs to be made by Trade Compliance in conjunction with management and engineering to ascertain feasibility
- Background research must be conducted prior to the design change
- Consider a Customs Ruling for the prospective import





Tariff Engineering Example #1

Jewelry

➤ Tariff Engineering Example #1

- Product Description: Base metal bracelet with enamel inlay, gold plated
- Objective: Redesign this piece of jewelry to kick it into new provision with lower duty rate.
- HTS Classification Before Design Change: **7117.19.9000** (Imitation jewelry: of base metal, whether or not plated w/ precious metal: other)
- Duty Rate: **11%**

Harmonized Tariff Schedule of the United States (2025)

Annotated for Statistical Reporting Purposes

XIV
71-16

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				General	1 Special	2
7117		Imitation jewelry:				
7117.11.00	00	Of base metal, whether or not plated with precious metal: Cuff links and studs.....	No.....	8% ^{1/2}	Free (A*, AU, BH, CL, CO, D, E, IL, JO, KR, MA, OM, P, PA, PE, S, SG)	110%
7117.19		Other:				
		Rope, curb, cable, chain and similar articles produced in continuous lengths, all the foregoing, whether or not cut to specific lengths and whether or not set with imitation pearls or imitation gemstones, suitable for use in the manufacture of articles provided for in this heading:				
		Valued not over 33 cents per meter:				
7117.19.05	00	Toy jewelry valued not over 8 cents per piece.....	kg.....	Free		80%
7117.19.15	00	Other.....	kg.....	8% ^{1/2}	Free (A, AU, BH, CL, CO, D, E, IL, JO, KR, MA, OM, P, PA, PE, S, SG)	80%
7117.19.20	00	Valued over 33 cents per meter.....	kg.....	11% ^{1/2}	Free (A, AU, BH, CL, CO, D, E, IL, JO, KR, MA, OM, P, PA, PE, S, SG)	110%
7117.19.30	00	Religious articles of a purely devotional character designed to be worn on apparel or carried on or about or attached to the person.....	kg.....	3.9% ^{1/2}	Free (A, AU, BH, CL, CO, D, E, IL, JO, KR, MA, OM, P, PA, PE, S, SG)	45%
7117.19.60	00	Other: Toy jewelry valued not over 8 cents per piece.....	kg.....	Free ^{1/2}		110%
7117.19.90	00	Other.....	kg.....	11% ^{1/2}	Free (A, AU, BH, CL, CO, D, E, IL, JO, KR, MA, OM, P, PA, PE, S, SG)	110%

Do you see any alternatives?



➤ Tariff Engineering Example #1

- Product Description: Base metal bracelet with enamel inlay, gold plated
- Objective: Redesign this piece of jewelry to kick it into new provision with lower duty rate.
- HTS Classification Before Design Change: **7117.19.9000** (Imitation jewelry: of base metal, whether or not plated w/ precious metal: other)
- Duty Rate: **11%**
- Design Modification: Replace enamel inlay with semi-precious stones (e.g., turquoise, cubic zirconia 'cz').
- New HTS Classification: **7116.20.0500** (Articles of semi-precious stones (natural, synthetic, or reconstructed), jewelry: valued not over \$40)
- New Duty Rate: **3.3%**
- Duty Savings: On \$100,000 of imports:
 - Pre-Redesign Duties: \$11,000
 - Post-Redesign Duties: \$3,300
 - Savings: \$7,700
- References:
 - GRIs: GRI 1 for heading text, GRI 6 for subheading selection.
 - ICP: *"What Every Member of the Trade Community Should Know About: Jewelry."*
 - Rulings: HQ H007655; H063616 (Classification of imitation vs. semi-precious stone jewelry).



Tariff Engineering Example #2

Apparel



> **Tariff Engineering Example #2**

- Product Description: Women's cotton blouse without specific design features
- Objective: Redesign this piece of apparel to kick it into new provision with lower duty rate.
- HTS Classification Before Design Change: **6206.30.30** (Women's blouses, shirts and shirt-blouses of cotton, not knitted or crocheted, other)
- Duty Rate: **15.4%**

Harmonized Tariff Schedule of the United States (2025)

Annotated for Statistical Reporting Purposes

XI
62-91

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		2
				General	Special	
6206 (con.) 6206.30 6206.30.10	00	Women's or girls' blouses, shirts and shirt-blouses: (con.) Of cotton: Certified hand-loomed and folklore products (341).....	doz..... kg	9% ^{1/2}	Free (AU, BH, CL, CO, E, IL, JO, KR, MA, OM, P, PA, PE, S, SG)	90%
6206.30.20	00	Other: Containing 36 percent or more by weight of flax fibers (341).....	doz..... kg	3.5% ^{1/2}	Free (AU, BH, CL, CO, IL, JO, KR, MA, OM, P, PA, PE, S, SG)	90%
6206.30.30		Other.....		15.4% ^{1/2}	Free (AU, BH, CL, CO, IL, JO, KR, MA, OM, P, PA, PE, S, SG)	90%
	03	Containing compact yarns described in statistical reporting numbers 5205.42.0021, 5205.43.0021, 5205.44.0021, 5205.46.0021 or 5205.47.0021 (341).....	doz. kg			
	11	Other: With two or more colors in the warp and/or the filling: Women's (341).....	doz. kg			
	21	Girls': Imported as parts of playsuits (237).....	doz. kg			
	31	Other (341).....	doz. kg			
	43	Other: Women's: Designed for use in hospitals, clinics, laboratories or contaminated areas (341).....	doz. kg			



Do you see any alternatives?





> Tariff Engineering Example #2

- Product Description: Women's cotton blouse without specific design features
- Objective: Redesign this piece of apparel to kick it into new provision with lower duty rate.
- HTS Classification Before Design Change: **6206.30.30** (Women's blouses, shirts and shirt-blouses of cotton, not knitted or crocheted, other)
- Duty Rate: **15.4%**
- Design Modification: Change the fabric composition (mixed media) to 70% silk and 30% cotton
- New HTS Classification: **6206.10.00** (Women's blouses, shirts, and shirt-blouses of silk or silk waste, not knitted or crocheted)
- New Duty Rate: **6.9%**
- Duty Savings: On \$100,000 of imports:
 - Pre-Redesign Duties: \$15,400
 - Post-Redesign Duties: \$6,900
 - Savings: \$8,500
- Reference:
 - ICP: *"What Every Member of the Trade Community Should Know About: Apparel Classification."*



> **Not Tariff Engineering...**

Misclassification

Manipulating Product Descriptions

Removing Features Post-import

False Documentation

Undervaluation



> Recordkeeping

- Legal requirement: 19 C.F.R. 163.3 Requires production of any records relating to an import transaction to CBP upon request. See also the (a)(1)(A) List.
- Disclaimer: Classification support records are not explicitly listed in 19 CFR Part 163 or on the (a)(1)(A) List but are referenced, as an entered HTS is a declaration of the classification of a product on entry.
- Classification support is a document or set of files that provide rationale for a specific HTS classification decision.
- It is crucial to retain this information as part of normal recordkeeping practices, as it also shows reasonable care was taken to assign HTS codes to products, in the event that Customs ever questions a classification or change from historically entered classifications.
- In the ever-increasing enforcement era we live in, classification support can be a saving grace in CF 28, audits, risk assessments, or prior disclosure situations.

Classification Support Examples

	A	B	C	D	E
1	Product SKU	Item Description	Current Vendor	HTS	Comments/Support
2	ABC123	Product One	Not Real Inc.	0123.00.0000	See ruling H123456
3	DEF246	Product Two	Not Real Inc.	4567.80.9000	This product is red and made of an unreal compound specifically called out in Heading 4567, therefore classification is proper under 4567.80.9000 by application of GRI 1. Similar products are classified here, per CBP Ruling H000001.
4	LMN000	Product Three	Not Real Inc.	0123.00.0000	See ruling H123456
5	XYZ200	Product Four	Not Real Inc.	4567.80.9000	This product is red and made of an unreal compound specifically called out in Heading 4567, therefore classification is proper under 4567.80.9000 by application of GRI 1. Similar products are classified here, per CBP Ruling H000001.
6					
7					

Classification analysis for A Great Example

Classification review for CF28 request dated 08/21/2022 and due on 09/20/2022, regarding the following entry numbers:

- 123-45678910, material number: 12300001
- 123-22222222, material number: 12300003

All other part numbers in reference on the commercial invoices and declared on Entry Number 123-45678910 were assists shipped from the US to the vendor in Canada to be incorporated into a weather machine.

The materials under classification review are **weather machine** sub-assemblies, all part of the Global Warming Crisis Preventor 3000.

Multilateral weather machines function by preventing further weather-related disasters and reverse the effects of global warming. The complete system functions in some very scientific and logical way after combining each of the subassemblies.

Global Warming Crisis Preventor 3000 Main Components:



Incomplete weather machine sub-assemblies, by operation of GRI 2 are classified as HTS 0001.23.4567, per ruling H098765. In my opinion, they are better classified under **7326.90.8688**, which provides for "Other articles of iron or steel: other... other... other... other," however the ruling is on point.

Others HTS Headings considered: 7304, 7305, and 7306, which provides for "tubes, pipes and hollow profiles..." These headings would not be applicable as it excludes tubes, pipes and hollow profiles made up into specific identifiable articles.

Classification Support Examples

> Key Takeaways



- **Classification Complexity:**
 - Items like fasteners, gaskets, and base metal mountings are notoriously difficult to classify due to nuanced distinctions (e.g., screws vs. bolts; general use vs. parts of machinery).
 - Detailed product descriptions and precise application details are critical for accurate HTS classification.
- **Application of Tariff Engineering:**
 - Proactively designing products to meet classification parameters can reduce duty rates legally.
 - Collaboration between engineering and trade compliance teams is essential for feasibility and implementation.

> Key Takeaways



- **General Rules for Interpretation (GRI):**
 - Use GRI principles, such as determining "essential character" for sets and assessing parts' primary functions, to resolve classification disputes.
- **Court Cases as Guidance:**
 - Cases like **Rocknel Fastener, Inc. v. United States** and **The Container Store v. United States** emphasize reliance on functional distinctions and legal notes for classification disputes.
- **Recordkeeping Compliance:**
 - Maintain robust classification support documentation to demonstrate reasonable care during audits or inquiries.



Questions?



➤ ECCN Classification



> Agenda (ECCN)

- Where to start?
- Dual Use Items
- ECCN Classification Process and Steps
- Classification Examples
- Review New Controls Recently Added to the CCL
- Record Keeping
- Key Takeaways
- Questions



Where to start?

➤ BIS Decision Tree for ECCN Classification

1. **Start** → Subject to EAR?
2. → **EAR99 or CCL?**
3. → **Identify ECCN** → Check **Country Chart**.
4. → **License Exceptions** → Is a **License Required?**
5. → Check **End-Use/User** Restrictions and **Embargoes/Sanctions** → Export or File for a License.

- **Key Resources:**
 - **EAR Part 738:** CCL and Country Chart.
 - **EAR Part 740:** License Exceptions.
 - **EAR Part 744:** End-Use and End-User Controls.
 - **EAR Part 746:** Embargoes and Sanctions.



› **Dual Use Items**

Goods, software, or technology that can be used for both civilian and military purposes. They are subject to export controls to prevent their misuse in developing weapons, surveillance systems, or other harmful technologies.

See: 15 CFR 730.3: “Dual use” and other types of items subject to the EAR.

The following items are NOT dual use: GPS, drones, 3D printers, pathogens.

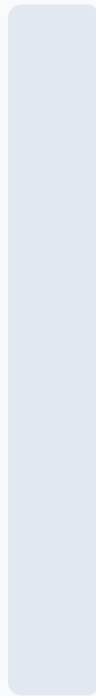
True

False

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

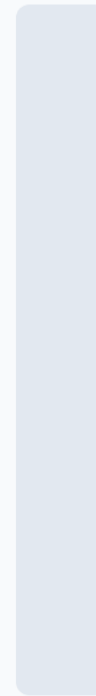
The following items are NOT dual use: GPS, drones, 3D printers, pathogens.

0%



True

0%

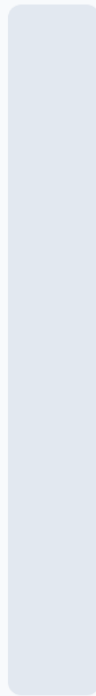


False

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

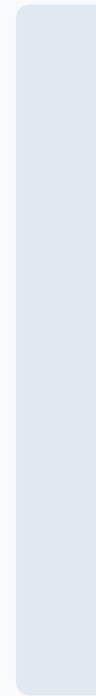
The following items are NOT dual use: GPS, drones, 3D printers, pathogens.

0%



True

0%



False

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

> Dual Use Items

Dual Use

- Just because you don't have a Government contract doesn't mean your products aren't considered dual use
- Formal definition is "items that have both commercial and military or proliferation applications."
- Informally, term used to refer to items subject to the EAR's CCL
- BUT, purely commercial items may also be subject to the CCL.

Examples of common "Dual Use" items

- Semiconductors and Integrated Circuits
- Specialty Alloys
- Bearings
- Valves
- Industrial Gases
- 3D Printers
- Navigation Systems / Drones
- GPS-capable items
- Sonar Equipment

› Key Starting Points

Important to Remember

- There is NO correlation between ECCNs and HTS codes
- Have an engineer handy
- Always know where the item will be used (its application)
- Having an ECCN does not always mean that you need a license to export
- Refer to the country chart and check the requirements to the country of ultimate destination

Be Familiar with the Definitions

- “Ground Vehicles”
- “n.e.s”
- “Specially designed”
- “Entry”
- Refer to: PART 772—DEFINITIONS OF TERMS

> Key Starting Points

Get Ready to Classify:

- Collect complete technical specifications
- Have a point of contact to clarify any questions
 - R&D engineer, product manager, etc.
- Be aware of any advanced technological capabilities
 - GPS-enabled
 - Encryption software loaded
 - Night vision technology
 - Underwater functionality



> ECCN Classification

- Search the CCL Index for specific terms and note all possible ECCNs based on your search and product parameters
- Think of the item you wish to classify in the most general terms you can think of. For example: “smart phone” → “wireless” “encryption”
- Rule out what doesn’t apply
 - Technical notes and parameters may require an engineer to rule out
- If equipment/hardware has an ECCN, software or technology (drawings) will also likely have an ECCN.



Step-by-step > Example

Thermal Imaging Camera



> Thermal Imaging Camera

- **Scenario:** Classify a Thermal Imaging Camera for Export Compliance
- **Item Description:**
 - A thermal imaging camera with 2D infrared (IR) detection capabilities.
 - Incorporating “focal plane arrays” with an unfiltered response in wavelength range equal to 10,000 nm
 - IR sensitivity: 0.05°C at 640 x 480 resolution.
 - Intended for wildlife observation but with potential industrial and military applications. (Not specially designed).
- Manufactured in the U.S. = Subject to the EAR

> Step 1: Determine Jurisdiction

Step 1: Determine if the Item is Subject to the EAR

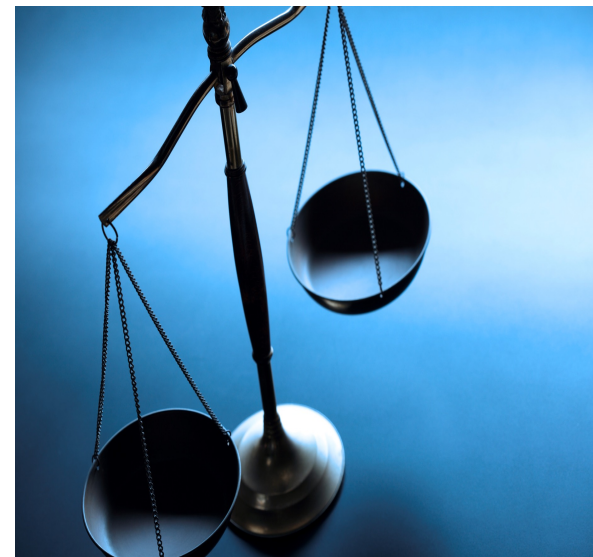
1. Action Taken:

- Confirm whether the item is subject to the EAR or excluded.
- Check for ITAR control or regulation by another agency (e.g., NRC, DOE).

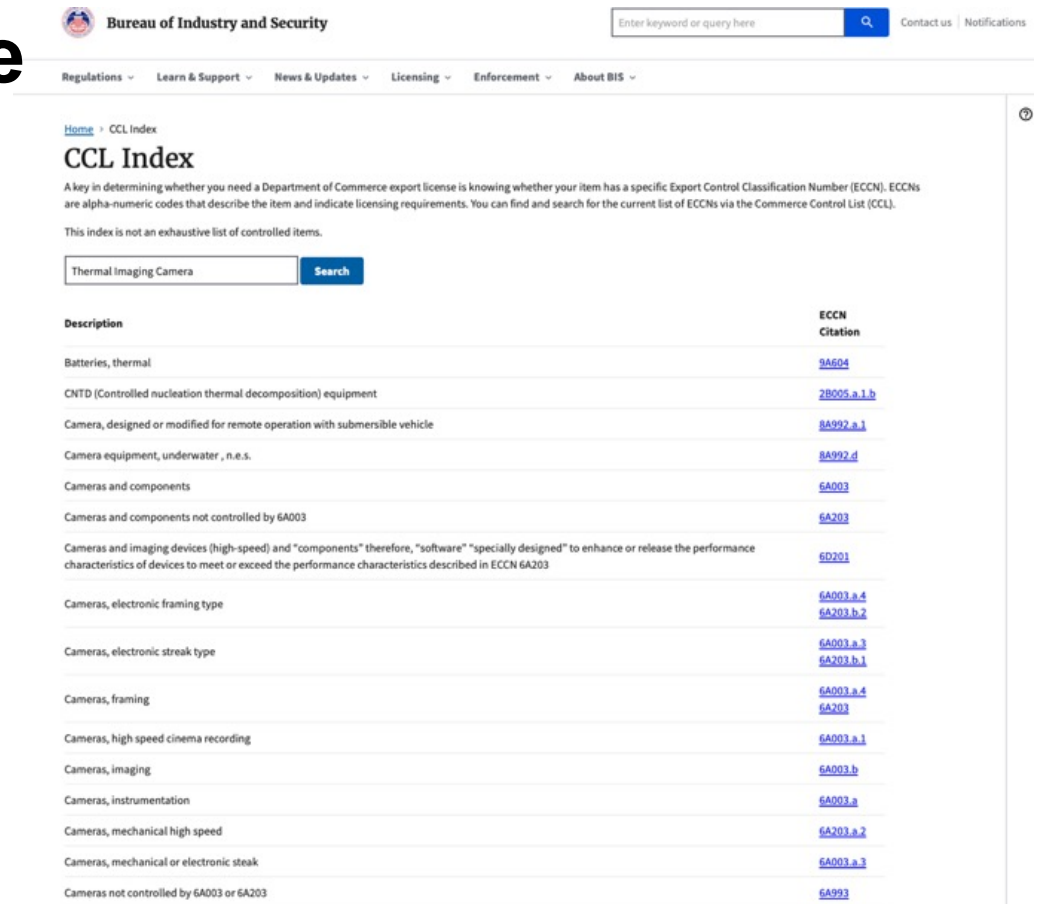
2. Strategy:

- Consult **EAR §734.3** to identify exclusions.
- Items with potential dual-use applications, such as thermal imaging cameras, are typically subject to EAR unless explicitly controlled by ITAR.

3. Outcome: The camera is subject to the EAR.



Step 2: Search the CCL Index



The screenshot shows the Bureau of Industry and Security website. The search bar contains 'Thermal Imaging Camera' and the search button is highlighted. The results table lists various camera types and their corresponding ECCN citations.

Description	ECCN Citation
Batteries, thermal	9A604
CNTD (Controlled nucleation thermal decomposition) equipment	2B005.a.1.b
Camera, designed or modified for remote operation with submersible vehicle	8A992.a.1
Camera equipment, underwater, n.e.s.	8A992.d
Cameras and components	6A003
Cameras and components not controlled by 6A003	6A203
Cameras and imaging devices (high-speed) and "components" therefore, "software" "specially designed" to enhance or release the performance characteristics of devices to meet or exceed the performance characteristics described in ECCN 6A203	5D201
Cameras, electronic framing type	6A003.a.4 6A203.b.2
Cameras, electronic streak type	6A003.a.3 6A203.b.1
Cameras, framing	6A003.a.4 6A203
Cameras, high speed cinema recording	6A003.a.1
Cameras, imaging	6A003.b
Cameras, instrumentation	6A003.a
Cameras, mechanical high speed	6A203.a.2
Cameras, mechanical or electronic streak	6A003.a.3
Cameras not controlled by 6A003 or 6A203	6A993

1. Action Taken:

- Open the CCL Index from the BIS website and search for relevant keywords such as:
 - "Thermal Imaging Camera"
 - "Camera."

2. Resource Used:

- **CCL Index:** Available at BIS Commerce Control List Index.

3. Result from Index Search:

- The term **"thermal imaging cameras"** directs to **ECCN 6A003, 6A203 and 6A993** under Category 6: Sensors and Lasers.

Step 3: Review ECCN 6A003

1. Action Taken:

- Navigate to **Category 6** (Sensors and Lasers) in **EAR Part 774**.
- Read the full ECCN entry for **6A003** to confirm applicability.
 - Focus on performance parameters such as sensitivity, resolution, and intended use.

2. Key Parameters in determining the complete ECCN under entry 6A003:

- Not specially designed
- Thermal imaging camera with 2D infrared (IR) detection capabilities.
- Incorporating “focal plane arrays” with an unfiltered response in wavelength range equal to 10,000 nm
- IR sensitivity: 0.05°C at 640 x 480 resolution.

3. Outcome: ECCN **6A003.b.4.b** based on “focal plane arrays” with an unfiltered response in wavelength range equal to 10,000 nm.

Does ECCN 6A003.b.4.b require an export license to Germany?

Yes

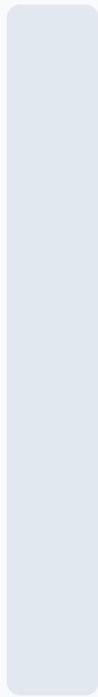
No

Maybe, need more research

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

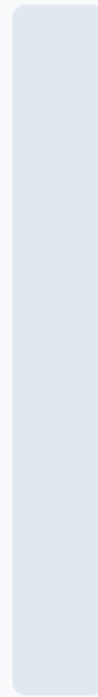
Does ECCN 6A003.b.4.b require an export license to Germany?

0%



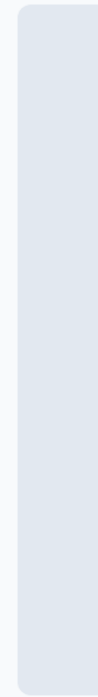
Yes

0%



No

0%

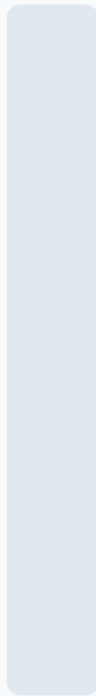


Maybe, need more research

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

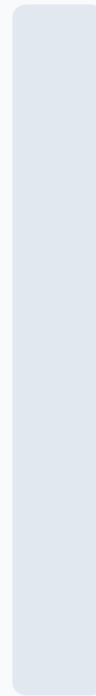
Does ECCN 6A003.b.4.b require an export license to Germany?

0%



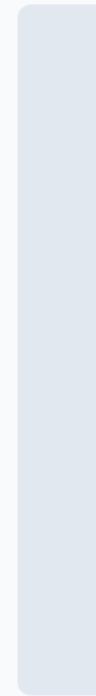
Yes

0%



No

0%



Maybe, need more research

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

> Step 3: Check Reasons for Control

Step 4: Action Taken:

- Identify the **Reasons for Control** listed in ECCN 6A003.
- Use the Country Chart (**Supplement No. 1 to Part 738**) to determine if the destination requires a license.

1. Resources Used:

- ECCN entry for 6A003: Reasons for control include **National Security (NS)**, **NP: Nuclear nonproliferation**, **RS: Regional stability**, **AT: Anti-terrorism**, and **UN: United Nations sanctions**.
- ECCN **6A003.b.4.b**: NS only column 2 applies, NP doesn't apply (only to 6A003.a.x), RS need additional information to make sure it applies. For UN controls, see 15 CFR 746.1(b) – sanctions on selected categories of items to specific destinations.
- Country Chart: Compare NS (Column 2), RS, AT, and UN (6A003.b.3 and **b.4**) controls with the destination (e.g., Germany – NS1, **RS1**).

2. Outcome: An export license may be required for export to **Germany** under RS

> Step 5: Check License Exceptions

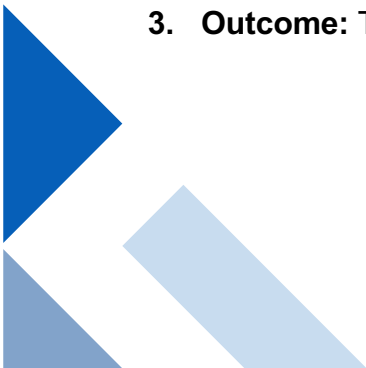
1. Action Taken:

- Determine if any license exceptions in **EAR Part 740** apply to the item.
- Common exceptions for sensors include:
 - **LVS (Low-Value Shipments)**: If the shipment value is below \$5,000. Not applicable to 6A003.b.4
 - **STA (Strategic Trade Authorization)**: For eligible countries like Germany.

2. Resources Used:

- EAR Part 740 License Exceptions Guide.

3. Outcome: The item qualifies for an **STA exception**, simplifying export procedures to Germany.



Step 6: Verify End-Use and End-User Restrictions

1. Action Taken:

- Screen the end-user and end-use against restricted parties and prohibited activities.
- Review **EAR Part 744** for military, WMD, or proliferation-related concerns.

2. Resources Used:

- BIS Consolidated Screening List: www.trade.gov/consolidated-screening-list.
- EAR Part 744.

3. Favorable Outcome: No end-use or end-user restrictions apply to this export.

➤ Step 7: Document the Classification Process (Recordkeeping)

1. Action Taken:

- Record all steps taken, including the CCL Index search and ECCN determination.
- Save documentation for audits or compliance reviews, including:
 - CCL references.
 - End-user screening results.
 - ECCN and Country Chart findings.

2. **Outcome:** Comprehensive documentation ensures compliance and supports future audits.

➤ BIS Tools and Strategies Used

CCL Index Search:

- Search keywords like "thermal imaging camera" to locate relevant ECCNs.
- <https://www.bis.doc.gov/index.php/documents/regulations-docs/13-commerce-control-list-index/file>
- <https://www.bis.gov/ccl-index>

Commerce Control List (CCL):

- Review detailed ECCN descriptions.
- <https://www.bis.gov/ear>

Country Chart:

- Check license requirements by destination.
- <https://www.bis.gov/ear/title-15/subtitle-b/chapter-vii/subchapter-c/part-738/supplement-no-1-part-738-commerce-country>

License Exceptions Guide:

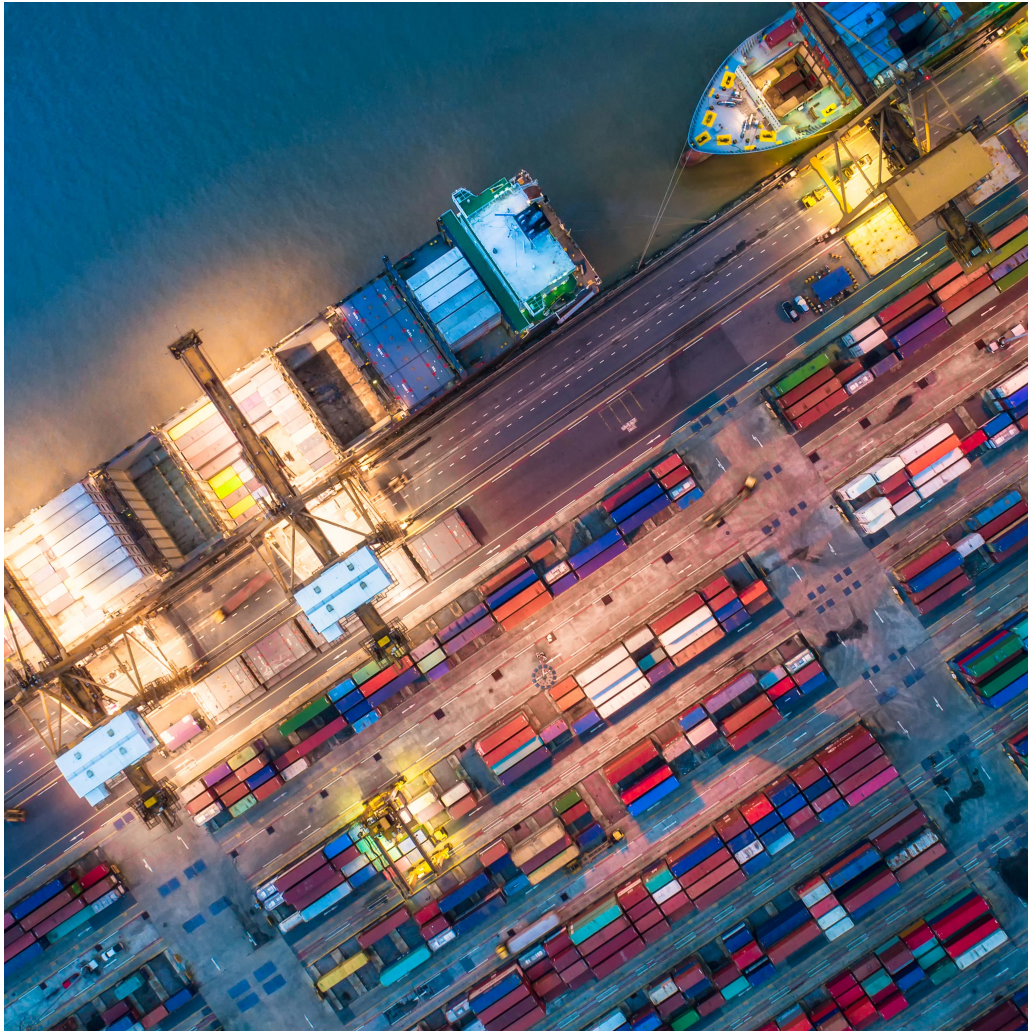
- Review eligibility under Part 740.
- <https://www.bis.doc.gov/index.php/documents/regulations-docs/415-part-740-license-exceptions/file>

BIS Consolidated Screening Tool:

- Screen end-users and end-uses for restrictions.
- www.trade.gov/consolidated-screening-list

Recordkeeping:

- Check recordkeeping requirements
- <https://www.bis.doc.gov/index.php/documents/regulation-docs/429-part-762-recordkeeping/file>



➤ Potential Cases of ECCN Classification Challenges

© 2025 Braumiller Law Group PLLC Any copying or distribution is prohibited.

> Bearings

Case Summary:

A U.S. company manufactures specialized bearings used in high-precision applications such as aerospace, energy turbines, and medical devices. The bearings exhibit characteristics that make them potentially dual-use, creating a complicated scenario for classification under the **Bureau of Industry and Security (BIS)**.



> Bearings

Key Factors Complicating Classification:

- Technical Characteristics
- Performance Parameters
- Dual-Use Applications
- Export Destinations



> Dual-Use Bearings

Classification Challenges:

- The bearings are not explicitly designed for military purposes but exceed the performance thresholds outlined in the **Commerce Control List (CCL)** for **ECCN 2A001** (materials or devices designed for military aerospace or missile systems).
- Determining whether the bearings require classification under ECCN 2A001 or are EAR99 (no license required for most destinations) becomes critical.



> Dual-Use Bearings / Resolution Process:

Self-Classification Effort:

- The company attempts to classify the bearings under ECCN 2A001 due to the high-performance parameters but finds ambiguity in meeting some technical specifications required for the classification.

Request for BIS Advisory Opinion:

- The company submits a Commodity Classification Automated Tracking System (CCATS) request for formal classification.
- BIS reviews the technical drawings, material compositions, and testing results to determine the appropriate ECCN.

BIS Determination:

- BIS determines that the bearings fall under **ECCN 2A001.b** due to their specific performance capabilities and potential use in missile systems or aerospace applications.
- This triggers a requirement for an export license for sales to certain countries and entities.

> Dual-Use Bearings / Resolution Process:

Compliance Requirements:

- The company is required to implement a **Technology Control Plan (TCP)** to prevent unauthorized access to sensitive designs.
- A license exception, such as **License Exception Strategic Trade Authorization (STA)**, is evaluated for exports to allied countries.

Outcome:

- The export to the foreign aerospace company is approved but with strict end-use monitoring and a requirement to report any unauthorized diversions.

References:

- **Regulation Reference:** EAR Part 774, Category 2 (Materials Processing).

> Industrial Robots

Case Summary:

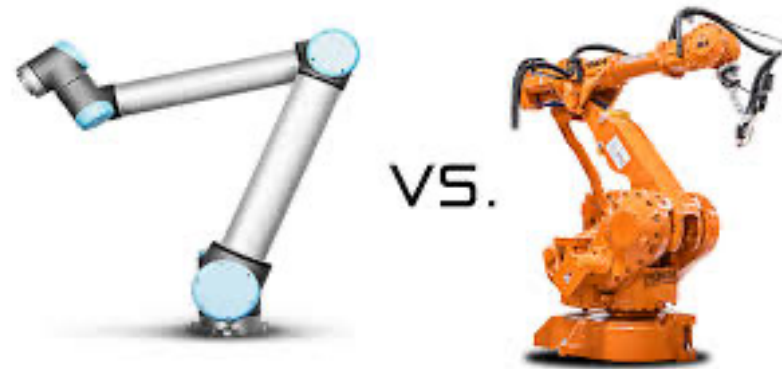
A U.S. robotics manufacturer produces advanced industrial robots used for precision assembly, welding, and 3D printing in aerospace and automotive sectors. The robots include high-level features such as artificial intelligence (AI) integration, high precision, and adaptive controls. These features raise potential concerns about dual-use applications under BIS regulations.



> Industrial Robots

Key Factors Complicating Classification:

- Technical Characteristics of the robots
- Dual-Use Applications
- Export Destination



> Industrial Robots

Classification Challenges:

- The robots potentially fall under **ECCN 2B007**, which applies to equipment capable of manufacturing high-precision components for aerospace or missile systems.
- Determining whether the robots require classification as dual-use or are considered EAR99 becomes the key challenge.



> Industrial Robots - Resolution Process:

1. Self-Classification by the Manufacturer:

- The company initially classifies the robots under ECCN 2B007.c, due to their precision, AI capabilities, and payload specifications.
- However, there is ambiguity regarding whether the robots' AI features and adaptability fall under a separate ECCN (potentially ECCN 4A003 for AI-related technologies).

2. Request for BIS Advisory Opinion:

- The company submits a **Commodity Classification Automated Tracking System (CCATS)** request to BIS, providing:
 - Detailed technical specifications of the robots.
 - Information on AI integration and operational thresholds.
 - Intended end-user certifications and export destinations.

> Industrial Robots - Resolution Process:

3. BIS Review Process:

- BIS examines:
 - The level of precision and adaptive control.
 - AI capabilities and whether they enable autonomous operation in military scenarios.
 - Possible use in missile or UAV manufacturing.
- BIS identifies the robots as dual-use under ECCN 2B007.c but also flags the AI control system under ECCN 4A003 due to its machine learning capabilities.

4. Compliance Requirements:

- BIS requires an export license for the robots due to their potential military applications and the end-user country being under scrutiny.
- A comprehensive **Technology Control Plan (TCP)** is mandated to prevent unauthorized access to sensitive AI algorithms.
- End-use monitoring is required to ensure compliance with export controls and avoid diversion to military uses.

> Industrial Robots

Outcome:

- The company receives an export license for the robots but with strict conditions:
 - Limitations on the AI capabilities available to the foreign user.
 - Prohibition on modifications that would increase payload or precision for potential missile or UAV applications.
 - Reporting requirements for any subsequent transfers or modifications.

References:

- **Regulation Reference:** EAR Part 774, Category 2 (Materials Processing).

> Industrial Robots

Lessons Learned:

1. Complex Technology Requires Careful Review:

- The inclusion of advanced features like AI can trigger additional export controls under separate ECCNs.

2. Dual ECCN Classification Challenges:

- Products can fall under multiple ECCNs, complicating compliance.

3. Proactive BIS Engagement:

- Engaging BIS early through a CCATS request prevents accidental non-compliance.

4. End-User and Destination Scrutiny:

- Exporters must rigorously verify the end-use and end-user, especially for high-tech equipment.

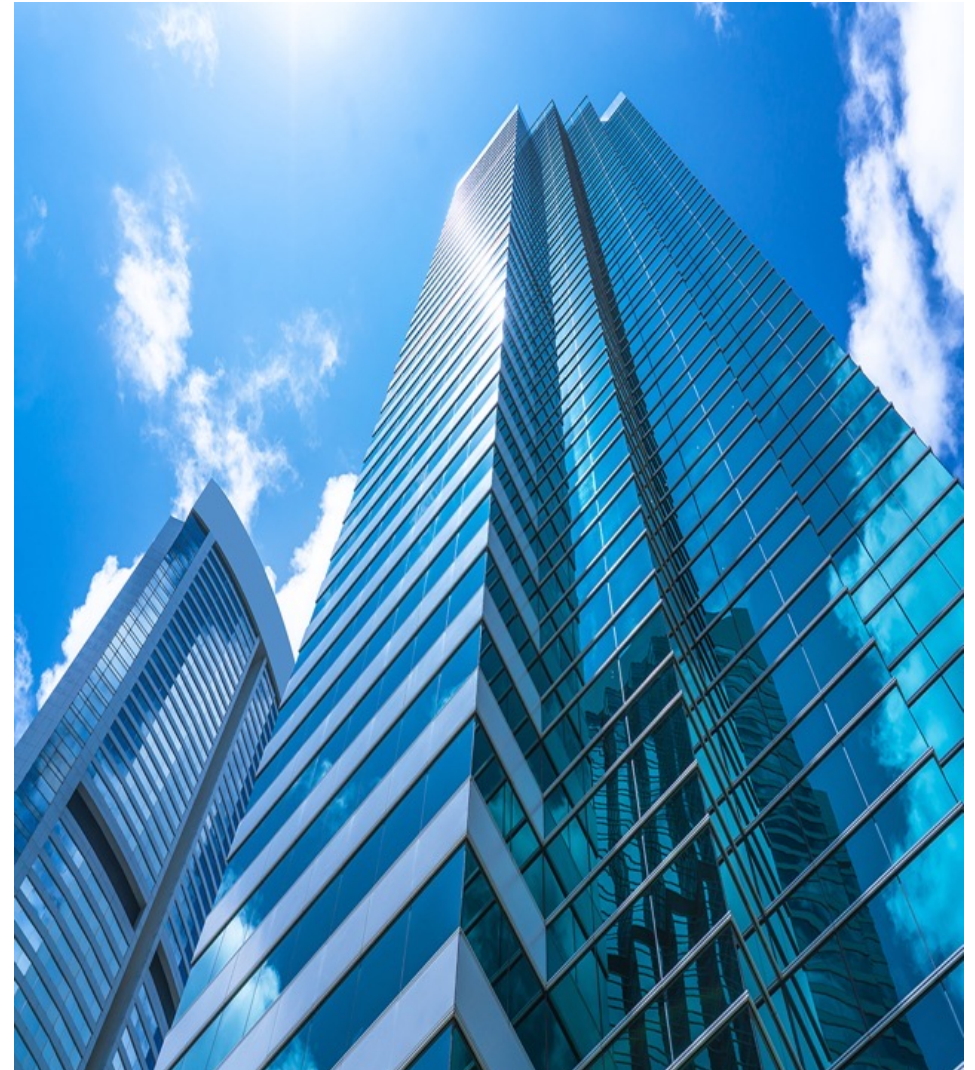
➤ Mass Market Encryption

Scenario:

- A GPS-enabled smartwatch with encryption capabilities was submitted for ECCN classification. The importer argued it should be classified as EAR99 (not controlled), while the Bureau of Industry and Security (BIS) contended it fell under ECCN **5A992.c** (Mass-market encryption items).

Challenge:

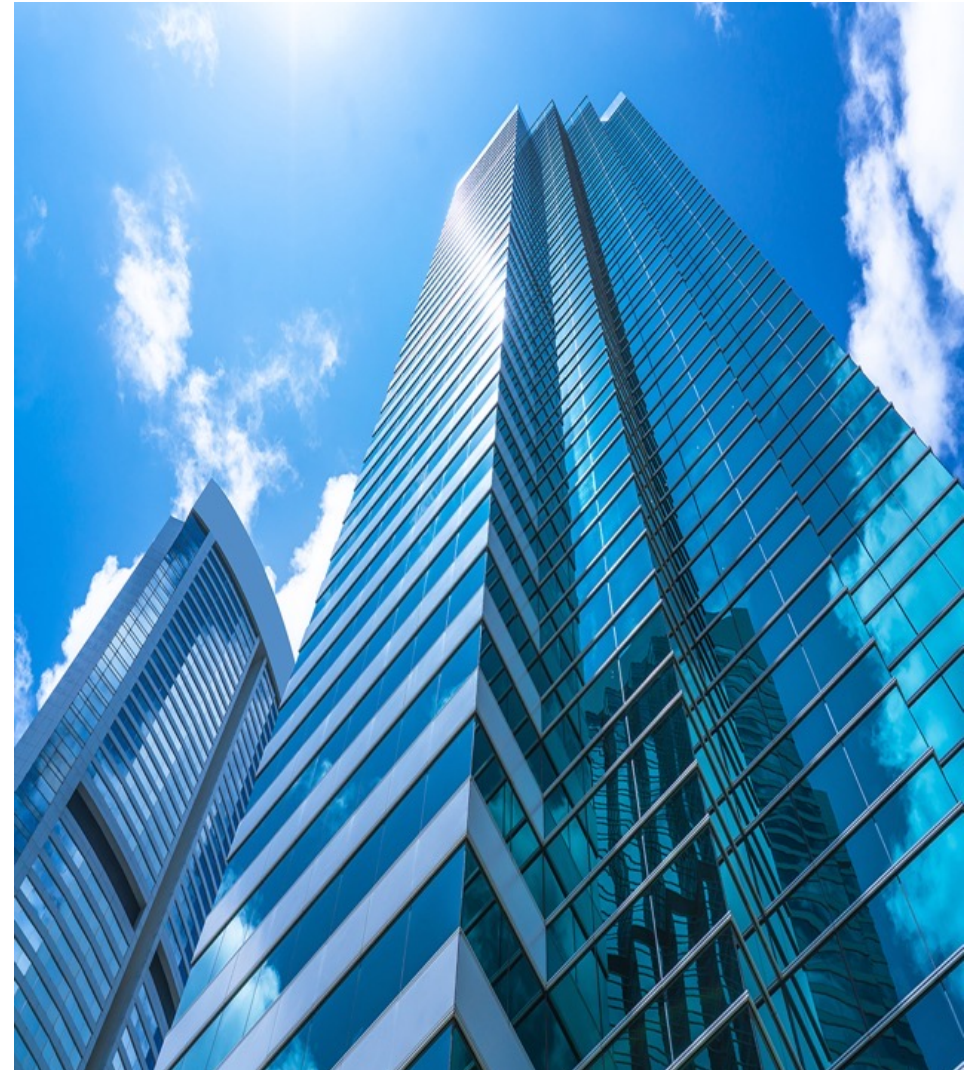
- Determining whether the device qualifies as EAR99 or requires classification under 5A992 due to its encryption features.



> Mass Market Encryption

References:

- **BIS Guidance:** Items incorporating encryption software, even mass-market products, typically fall under ECCN 5A992 unless exempt.
- **Decision:** BIS classified the smartwatch under ECCN 5A992, requiring export controls based on encryption capability.
- **Relevant Ruling:** BIS Advisory Opinion on GPS-enabled devices, October 2020.
- **Key Regulation:** 15 CFR 742.15 (Encryption Items).



➤ General Guidelines for ECCN Classification Challenges

Understanding the CCL Categories:

- Categories cover areas such as electronics, materials processing, telecommunications, and encryption.
- Example: Category 5 (Part 2) governs encryption items.

GRI-Like Decision Framework:

- Use the BIS Decision Tree and CCL Index to identify applicable ECCNs.
- Examine whether the item is considered EAR99 based on functionality, performance thresholds, or specific exemptions.

Regulatory Guidance and FAQs:

- BIS provides detailed guidance on items like encryption, dual-use technology, and mass-market exemptions.

Protests and Appeals:

- Exporters can file advisory opinions or appeals with BIS if they dispute ECCN classifications.



> Recordkeeping

- **Legal Requirement:** 15 CFR Part 762 Requires companies and individuals involved in exporting or reexporting items must maintain proper records related to Export Control Classification Number (ECCN) determinations.

- **Retention Period:** Records must be retained for at least five years from the latest of:
 - The date of the export, reexport, or transfer
 - The expiration of any license
 - The date of any denial, modification, or revocation of a license

- **Records to Keep:**
 - ECCN Classification Determinations
 - Export Documentation
 - Internal Communications & Due Diligence

> Recordkeeping

- **Format and Accessibility:**
 - Records can be paper-based or electronic
 - Must be readily available for inspection by BIS upon request
- **Special Considerations**
 - If an exporter relies on a third-party classification, they should retain documentation of the source.
 - If classification changes (e.g., due to regulatory updates), companies should update records accordingly

> New Controls Recently Added to the CCL

1. Advanced Computing and Semiconductor Manufacturing Items

- **New ECCN 3A090:** Controls on High Bandwidth Memory (HBM) stacks currently in production.

2. Semiconductor Manufacturing Equipment (SME)

- **New ECCNs 3B993 and 3B994:** Cover items that support advanced-node integrated circuit (IC) production.

3. Quantum Computing and Additive Manufacturing

- **Focus:** New controls on quantum computing technologies and additive manufacturing equipment capable of producing metal components.

> New Controls Recently Added to the CCL

4. Gate-All-Around Field-Effect Transistor (GAAFET) Technology

- **Focus:** Specific controls targeting advanced transistor technologies (e.g., GAAFET) crucial for semiconductor manufacturing.

5. AI Chips and Advanced Technology

- **Focus:** Broader restrictions on the export of advanced AI chips and technologies to specific countries.





Key Takeaways



> Takeaways

- **ECCN vs. HTS:**
 - There is no direct correlation between ECCNs and HTS codes. Classification processes differ significantly.
- **Dual-Use Classification:**
 - Many items, including bearings, industrial robots, and AI-enabled products, have both civilian and military applications, requiring careful assessment under the Export Administration Regulations (EAR).
- **Steps for ECCN Classification:**
 - Follow a structured approach: Determine jurisdiction → Search CCL Index → Identify ECCN → Review control reasons → Assess license exceptions → Verify end-use/end-user restrictions.

> Takeaways



- **Technical Collaboration:**
 - Input from engineers or product managers is often necessary to evaluate advanced capabilities like encryption, GPS integration, or night vision.
- **New Technology Controls:**
 - Be aware of recently added controls, such as those on quantum computing, AI chips, and advanced semiconductors, which reflect evolving national security priorities.
- **Proactive BIS Engagement:**
 - For ambiguous classifications, submit a Commodity Classification Automated Tracking System (CCATS) request or seek an advisory opinion to ensure compliance.
- **License Requirements:**
 - Always cross-check destination countries and end-users with BIS country charts, restricted party lists, and embargo regulations to determine licensing needs.



Questions?

> Speakers

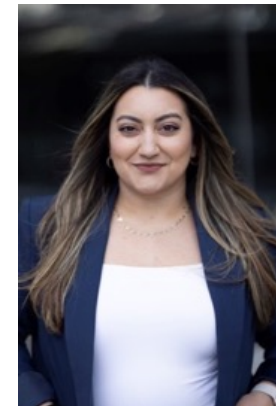


Eliza Seibert

Sr. Trade Advisor,
Braumiller Consulting Group
eliza@braumillerconsulting.com

Megan Mohler

Sr. Associate Attorney,
Braumiller Law Group
megan@braumillerlaw.com



Braumiller Law Group, PLLC

5220 Spring Valley Road
Suite 200

Dallas, Texas 75254
Ofc: (214) 348-9306

<https://www.braumillerlaw.com>

