

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

# Tractors (HTSUS 8701) vs. Heavy Industrial Machinery (HTSUS 8429 & 8430)



AN INFORMED COMPLIANCE PUBLICATION

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**U.S. CUSTOMS and BORDER PROTECTION**

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## PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “informed compliance” and “shared responsibility,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record’s failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

Regulations and Rulings (RR) of the Office of International Trade has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the National Commodity Specialist Division of Regulations and Rulings is entitled “Tractors (HTSUS 8701) vs. Heavy Industrial Machinery (HTSUS 8429 & 8430).” It provides guidance regarding the classification of these items. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Executive Director, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9<sup>th</sup> Street, NW – 7<sup>th</sup> Floor, Washington, D.C. 20229-1177.

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<b>INTRODUCTION.....</b>	<b>7</b>
<b>TRACTORS - GENERAL .....</b>	<b>7</b>
Tractors Suitable for Agricultural Use.....	12
<b>MACHINERY OF HEADINGS 8429 AND 8430.....</b>	<b>13</b>
<b>TRACTOR OR MACHINE? .....</b>	<b>15</b>
<b>PARTS.....</b>	<b>18</b>
<b>ADDITIONAL INFORMATION.....</b>	<b>24</b>
The Internet.....	24
Customs Regulations .....	24
Customs Bulletin .....	24
Importing into the United States .....	25
Informed Compliance Publications .....	25
Value Publications.....	26
“Your Comments are Important” .....	27

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## INTRODUCTION

U.S. Customs and Border Protection's (CBP's) treatment of the tractor has had a long and interesting history which has frequently required that the CBP import specialist become conversant with such concerns as design engineering and statistical analysis. The classification of tractors has never been a clear-cut and uncomplicated operation, as it involves knowing the requirements of the suitability for use concept as well as the structural designs of tractors and certain heavy industrial machines. Over the years there has been some assistance in this process in the form of various versions of certain publications of the Customs Information Exchange (CIE): namely, the *Master Tractor Index* (MTI) and the CIE Form 35 on structural design. The MTI, and its various versions from 1983 (the last complete update) back to its original October, 1977 version, is not being reissued here, not only because of its prohibitive length but mainly because very few, if any, of the tractors listed therein are still being imported today. It is the responsibility of CBP to make the final classification decision for any particular article, guided by the information submitted by the importer, precedential guidance, and product and design knowledge. The information contained herein is intended to assist the importing community in participating in this process so that it may exercise the expected reasonable care.

At several points in this document, reference will be made to information derived from the Harmonized Commodity Description and Coding System Explanatory Notes (ENs), which constitute the official interpretation of the Harmonized System. While not legally binding on the contracting parties, and therefore not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the System. CBP believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Please be advised that any references to tariff provisions, legal notes or other citations are those which were in effect on the date of this publication and are used for discussion purposes only. You are urged to consult the current edition of these references for the most up-to-date information.

## TRACTORS - GENERAL

The term "tractors" was not defined in the Tariff Schedule of the United States, the predecessor to HTSUS. However, this did not cause problems since the Brussels Nomenclature definition was referred to any time a discussion was undertaken. That definition was adopted almost word for word for use in the HTSUS and may be found in Legal Note 2 to Chapter 87, HTSUS:

For the purposes of this chapter, "tractors" means vehicles constructed essentially for hauling or pushing another vehicle, appliance or load, whether or not they contain subsidiary provision for the transport, in connection with the main use of the tractor, of tools, seeds, fertilizers or

other goods.

Machines and working tools designed for fitting to tractors of heading 8701 as interchangeable equipment remain classified in their respective headings even if presented with the tractor, and whether or not mounted on it.

Tractors are provided for in heading 8701, HTSUS, which includes all tractors other than tractors of the type used on railway station platforms (heading 8709). The pertinent tariff provisions are as follows:

8701	Tractors (other than tractors of heading 8709):	
8701.10.0000	Pedestrian controlled tractors	
8701.20.00	Road tractors for semi-trailers	
	New:	
15	G.V.W. not exceeding 36,287 kg	
45	G.V.W. exceeding 36,287 kg	
80	Used	
8701.30	Track-laying tractors:	
8701.30.10	Suitable for agricultural use	
	New:	
15	With a net engine power of less than 93.3 kW	
30	With a net engine power of 93.3 kW or more but less than 119.4 kW	
45	With a net engine power of 119.4 kW or more but less than 194 kW	
60	With a net engine power of 194 kW or more but less than 257.4 kW	
75	With a net engine power of 257.4 kW or more	
90	Used	
8701.30.50	Other	
	New:	
15	With a net engine power of less than 93.3 kW	
30	With a net engine power of 93.3 kW or more but less than 119.4 kW	
45	With a net engine power of 119.4 kW or	



		more but less than 194 kW
60		With a net engine power of 194 kW or more but less than 257.4 kW
75		With a net engine power of 257.4 kW or more
90	Used	
8701.90	Other:	
8701.90.10	Suitable for agricultural use	
01	Log skidders	
	Other:	
	New:	
05		Power take-off (PTO) type: With a PTO of less than 14.9 kW
10		With a PTO of 14.9 kW or more but less than 22.4 kW
15		With a PTO of 22.4 kW or more but less than 29.8 kW
30		With a PTO of 29.8 kW or more but less than 44.8 kW
35		With a PTO of 44.8 kW or more but less than 59.7 kW
40		With a PTO of 59.7 kW or more but less than 74.6 kW
45		With a PTO of 74.6 kW or more but less than 89.5 kW
50		With a PTO of 89.5 kW or more but less than 104.4 kW
55		With a PTO of 104.4 kW or more but less than 119.4 kW
60		With a PTO of 119.4 kW or more but less than 134.3 kW
65		With a PTO of 134.3 kW or more
70	Other	

	90	Used
8701.90.50		Other
	15	With a net engine power of less than 223.8 kW.
	20	With a net engine power of 223.8 kW or more but less than 373 kW
	25	With a net engine power of 373 kW or more

At a glance, it can be seen that there are four major break-outs of tractors under heading 8701: pedestrian controlled tractors (8701.10), road tractors for semi-trailers (8701.20), track-laying tractors (8701.30), and all other tractors (8701.90). (This publication, however, does not apply to the road tractors for semi-trailers described by subheading 8701.20, HTSUS.)

Pedestrian controlled tractors (subheading 8701.10) are small tractors used largely for agricultural purposes. They may sometimes serve industrial purposes, and are equipped with a single driving axle carried on one or two wheels. As with tractors in general, they are designed for use with interchangeable implements which they may operate by means of a general-purpose power take-off. They are not usually fitted with a seat and the steering is effected by means of two handles. Some types, however, also have a one- or two-wheeled rear carriage with a seat for the driver. See CBP Headquarters (HQ) ruling 961255, dated November 11, 1998, for an example of this type of tractor.

The chassis of a tractor may also be mounted on tracks or on a combination of wheels and tracks (these are the track-laying-type tractors of subheading 8701.30) or on wheels only (these are the other type tractors of subheading 8701.90). Each of these types of tractors is further differentiated between tractors suitable for agricultural use, and tractors for other than agricultural use. This latter distinction will be clarified later in this publication.

The paramount requirement for any vehicle said to be a tractor is that it meet the definition of the term given in legal note 2 to Chapter 87 cited above, that is, that it be a vehicle constructed essentially for hauling or pushing another vehicle, appliance or load. This is at the heart of the versatility of this vehicle and the characteristic which distinguishes it from tractive-type, purpose-built machines classified elsewhere, and other than in heading 8701. We will elaborate on this point later.

The tractor's versatility is most easily, if not always, demonstrated through the addition of a so-called three-point hitch and/or a power take-off (PTO). These built-in components of tractors enable the tractor to push or pull and operate another implement which is designed for some kind of work: plowing, digging, loading, cultivating, spraying and so forth. As stated in legal note 2 to Chapter 87 and in the ENs, interchangeable

machinery and working tools designed for fitting to tractors are classified separately from the tractor, even if presented with or on the tractor. See New York (NY) ruling 811315, dated June 15, 1995, for an example of this principle.

Where required by the tariff, the power ratings of the tractor's engine or PTO will determine the subheading where the tractor is classified. For tractors of the PTO type, the power rating of the tractor's PTO will determine the subheading classification, while the net engine power rating will determine the particular classification for the balance of the tractor universe. Power ratings given in horsepower may be converted for HTSUS purposes by multiplying the horsepower rating by 0.7457 to yield the required kilowatt rating.

The ENs provide additional general information and guidance about tractors. For example, the ENs state that tractors are not fitted with coachwork although they may have seats for the crew or driving cab. This ignores advancements in the creature comforts of tractor cabs in recent years, including air conditioning, stereo and CD systems, and other interior upgrading. However, this notwithstanding, it should be understood that parts of general use covered by Note 2 of Section XV, insofar as they refer to any heading covering coachwork, more specifically, heading 8302, HTSUS, will not include coachwork for the interior of tractors. This will be further explained in this document's section concerning parts.

The ENs also state that the heading includes tractors fitted with winches of a type described within the EN to HTS 8425. Such articles can typically be found on the log skidders of subheading 8701.90.1001, HTSUS. Moreover, log skidders routinely include special dozer blades as standard equipment which aid in the pushing of logs around for skidding purposes. This might appear to be at odds with the direction expressed by legal note 2 to Chapter 87 that machines designed for fitting to tractors as interchangeable equipment remain classified in their respective headings even if mounted on the tractor at the time of presentation. It should be understood in the case of log skidders that the special dozer blades are not interchangeable equipment, but are part of the basic design of these specialty tractors. For that reason, dozer blades on log skidders, as well as the winches, are not subject to the requirement for separate entry of interchangeable working tools.

The ENs attempt to address the most difficult problem that confronts those trying to distinguish between the tractors of chapter 87 and the tractor-like machines of chapter 84 of the HTSUS. This issue will be addressed in a more detailed section further on, but it is important to note here that the ENs can be cited as authority for the generalized distinctions they make between tractors and tractor-like machines in several places in the ENs. For example, the ENs state that:

propelling bases forming an integral part of a machine designed for handling, excavating, etc., can be distinguished from the tractors of this heading [8701] by their special constructional features.... For instance,

the propelling bases not covered by this heading [8701] incorporate robust elements...to carry the actuating equipment for the working tools.

## **Tractors Suitable for Agricultural Use**

Once a determination has been made that a particular unit is a tractor of chapter 87, the next question to ask is whether it is a tractor suitable for agricultural use. Subheadings 8701.30.10 and 8701.90.10, HTSUS, provide for tractors suitable for agricultural use. The phrase "suitable for agricultural use" has been interpreted by the courts as requiring that a tractor be actually, practically, and commercially fit for such use. Suitability does not require that the tractor be principally used in agricultural pursuits, but there must be evidence of more than a casual, incidental, exceptional or possible use in this area. There must be evidence of substantial actual use in a recognized agricultural pursuit. *U.S. v. F.W. Myers & Co., Inc.*, C.A.D 1097, 476 F.2d 1377 (1973); See also HQ ruling 951506, dated May 29, 1992.

What are those factors which weigh most heavily in favor of a finding of suitability for agricultural use? The following, in no particular order, should be consulted when one is looking to support a suitability claim:

1. Sales literature showing the tractor's specifications. Do these specifications place the tractor in the same class or kind of tractor which has previously been ruled upon to be suitable for agricultural use, either in the Master Tractor Index or in later rulings? One thing that should be kept in mind when referring to any list like the MTI or the HTSUS list of rulings is that many tractor manufacturers make more than one version of the same tractor model. A special application (SA) version of a tractor may be the same size and have the same outward appearance as the basic model but be modified in such a way that it is no longer classifiable like the standard tractor from which it is derived. This is not to suggest that any additional prefixes tacked onto the base model designation, or differing slightly from it, are going to result in a different classification - only that it may warrant further inquiry. Oftentimes, a different or additional number or letter prefix or suffix to the base model designates nothing more than the model year, the country of origin, a feature like four-wheel drive, or an insignificant engineering change that would not affect the classification.
2. Warranty information and product end use certificates showing actual use in recognized agricultural end pursuits such as land clearing, soil conservation, site preparation, irrigation, land reclamation, logging, and general agricultural.
3. What division of a company is marketing the tractor to what class of purchaser? If more than one division is involved, what are the combined sales to end users identified as agricultural?

4. Is it commercially realistic to sell the model under consideration to agricultural end users? Is there a competing model which does not sell to the agricultural market and why?
5. The advertising material and marketing approach, by its very nature, should show agricultural intent. The product may be shown in use with recognizable agricultural tools such as spreaders, rakes, harrows, plows, etc.
6. When required to be demonstrated, agricultural use must be substantial and not merely casual or accidental. This may prove to be problematical since there is no hard and fast rule as to what constitutes a substantial use.

See HQ ruling 951043, dated May 15, 1992, for a good illustration of the process involved in determining whether a tractor is suitable for agricultural use.

## **MACHINERY OF HEADINGS 8429 AND 8430**

At this point we will now examine the machinery of headings 8429 and 8430 as a backdrop to contrasting them with the tractors of Chapter 87 in the next section of this publication.

The machines of heading 8429 are all self-propelled earth digging, excavating or compacting machines which are explicitly cited in the heading. These are bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers. Because of apparent visual similarities, sometimes certain machines of this heading are frequently confused with the tractors of Chapter 87.

Heading 8430 covers machinery, other than the machinery of headings 8429 and 8432, for attacking the earth's crust or for preparing or compacting the terrain. It also includes pile-drivers, pile-extractors, snow-ploughs and snow-blowers. The ENs for this heading, as they relate to self-propelled and multi-function machines, also apply to the machinery of heading 8429.

Excavating machines which are fitted on wagons and trucks of a kind which impart the essential character of railway rolling stock are generally classified in heading 8604 as railway maintenance or service vehicles. Railroad ballast excavators-screening machines are often mounted on wagons and trucks meeting this condition. However, excavating machines and the like mounted on trucks or platforms which do not conform to the specifications of true rolling stock are not classified in Chapter 86 but remain in heading 8430.

Certain working parts, for example, leveling blades or dozer blades, of the machines of these headings may also be mounted on tractors of HTS chapter 87. Such working

parts or tools for the tractors of chapter 87 are subsidiary equipment for occasional work. Generally, they are relatively light and can be mounted or changed at the work site by the user. These working tools remain in heading 8430 provided they constitute machinery of that heading or in heading 8431 if they are parts of those machines, even if presented with the tractor. The tractor itself, of course, is classified separately in heading 8701.

However, headings 8429 and 8430 cover self-propelled machines in which the propelling base, the operating controls, the working tools and their actuating equipment are specially designed for fitting together to form an integral mechanical unit. It is sometimes difficult to distinguish the machinery of these headings from the vehicles of heading 8701. HQ ruling 955502, dated March 31, 1994, cited the ENs to heading 8701 to rule certain tractor-backhoe-loaders out of heading 8701 and into heading 8429, as follows:

Relevant ENs at p. 1424 [now p. XVII-8701-1], state that heading 87.01 does not cover propelling bases specially designed, constructed or reinforced to form an integral part of a machine performing a function such as lifting, excavating, levelling, etc., even if the propelling base uses traction or propulsion for the execution of this function. The ENs continue on p. 1425 [now p. XVII-8701-2], under the heading TRACTORS FITTED WITH OTHER MACHINERY, 'As a general rule, propelling bases forming an integral part of a machine designed for handling, excavating, etc., can be distinguished from the tractors of [heading 87.01] by their special constructional features (shape, chassis, means of locomotion, etc.). For propelling bases of the tractor type, various technical features relating essentially to the structure of the complete unit and to equipment specially designed for functions other than hauling or pushing should be taken into consideration. For instance, the propelling bases not covered by [heading 87.01] incorporate robust elements (such as supporting blocks, plates or beams, platforms for swiveling cranes) forming a part of or fixed, generally by welding, to the chassis body framework to carry the actuating equipment for the working tools.'

Propelling bases resembling tractors, but which are specially designed, constructed or reinforced to form an integral part of a machine performing one of the functions mentioned in headings 8429 or 8430 remain in these headings as incomplete machines having the essential features of complete machines of the same kind. Propelling bases potentially classifiable in headings 8425 to 8430, because they can be equipped with several different working parts, are classified according to Note 3 to Section XVI (multi-function machines or composite machines) or by GRI 3(c), last occurring tariff number if no specific function of those headings prevails. A more detailed description of design characteristics, as they help determine the classification of these machines vis-a-vis tractors, follows below.

## TRACTOR OR MACHINE?

One of the difficulties that a classifier who handles vehicles in Chapter 87 and/or machinery in Chapter 84 faces is the challenge of distinguishing the oftentimes similar-looking (and sometimes similar performing) breeds of equipment that are frequently mistaken for each other. This gray area has long been a source of confusion when attempting to classify this merchandise. In September 1979, the Customs Information Exchange published a Form 35 information issuance, which dealt essentially with the design characteristics that help to differentiate a tractor from a tractor-like machine. Although the form is no longer in use, one may take guidance from it.

Tractors are versatile vehicles, which feature speed of interchangeability of working tools as a major characteristic, while tractor-like machines are designed exclusively for a particular function or group of related functions. There should be no problem distinguishing between a mechanical shovel with a 360 degree revolving superstructure and a typical agricultural tractor. The difficulty arises when attempting to distinguish between similar looking tractor-like propelling bases which might be encountered when comparing a front-end shovel loader and a tractor fitted with a loader. It is not sufficient when classifying these machines to say that an article appears to meet the definition of a tractor contained in the legal notes. It must be shown how and why that is so or, in the case of the negative, how and why an article meets the description of a machine of Chapter 84. The CIE Form 35 contained a list of questions, which still have validity when addressing that issue. For this reason, they are set forth as follows:

1. Does the unit meet the definition of a tractor - a wheeled or tracked vehicle constructed essentially for hauling or pushing another vehicle, appliance or load? Is it known as a tractor? By what name or names may the unit be known?
2. Is the unit marketed and sold as a tractor? In contrast, is it sold for the primary purpose of moving and lifting earth, minerals and ores? If appropriate, what is the meaning of any prefix and/or suffix to the model number? What specifically are the structural and design differences between the original model and the model under consideration?
3. Does the sales literature refer to it as a tractor or does it suggest it is more than a tractor? Sales literature will be needed as well as any other documentation which can show the model's uses, dimensions, tire sizes, horsepower, transmission, attachments, options, etc.
4. Is it used as a tractor in the country of exportation or other countries? What are the uses of the vehicle, including any applications in land reclamation, contour plowing, irrigation work, farm pond development, and land clearing activities?
5. Is it suitable for agricultural use? Is it actually, practically and commercially

fit for agricultural use? Is that use substantial actual use in agricultural pursuits? The importer should submit any supporting documentation.

6. Is the unit of the same class or kind of tractor as listed on the MTI or other list?
7. If the answer to number 6 is "no," to what class or kind of vehicle does it belong? In a given case, is it in its own class?
8. Are all the accessories, loader and bucket, for example, interchangeable on the propelling base? Are they readily removable by the operator in a relatively short time?
9. Are the accessories and working tools permanently attached? Do you have an integrated unit put together to answer to a particular application or group of associated applications?
10. Is the unit, when stripped of all its accessories and working tools, considered to be a tractor, an excavator, a bulldozer, a loader, an automotive chassis, an unfinished special purpose vehicle, a self-propelled works truck or platform tractor, or some other lifting, handling, loading or unloading machinery?
11. When the accessories and working tools are removed, is the propelling base which remains an operational vehicle capable of adapting to such attachments as spreaders, plows and harvesting machines?
12. Do the design features of the unit include any of the characteristics listed on the next page? These features are associated with excavators, bulldozers and loaders.
13. Are sales figures available for each model, sorted by marketing division (agricultural, industrial, or both) since production began? Also requested would be the totals with regard to intended use as indicated in writing to the dealer at the time of purchase. If a unit is said to be suitable for agricultural use but there have been no sales for such use, what are the reasons for this situation?
14. Can affidavits of actual use and state sales tax exemption forms be obtained from end users if necessary?

The CIE Form 35 also included a section on the design characteristics of excavators, bulldozers and loaders, the machines most closely related to the typical tractor design. Some of those listed characteristics are somewhat out of date and have been modified for this publication. Generally, these machines are purposely built for the primary function of moving and lifting earth, minerals and ores. Here are the design



characteristics that these machines share in common, to a greater or lesser degree:

1. They are constructed from the ground up; that is, they are designed exclusively for a specific application or group of closely related applications.
2. These units usually have a brawny, heavy frame designed to absorb and withstand the constant stress and shock of high production digging and loading. The units are usually low profile, with low subframe posts for that purpose. Because of the low profile look, these units may incorporate a heavy belly pan to protect the oil pan from being damaged from rocks and debris over which these units habitually drag.
3. They are built with heavy supporting blocks, plates and beams. Front-end shovel loaders have a special subframe known as a loader tower, which resists shock and loading stresses and protects the lift cylinders and lines.
4. Crawler variety machines are apt to have longer tracks to increase the stability of the base.
5. The working tools of these machines, for example, loaders and bulldozer blades, are permanently attached. These tools are bolted into place and are not easily removed. Therefore, they do not provide a high speed of interchangeability that is required of a tractor in agricultural use. Integrated tool carriers, usually classified in heading 8429, HTSUS, have a variety of interchangeable attachments but the lifting arms are permanently in place.
6. These units have built-in controls, usually right on the dashboard, and are there for the specific purpose of accomplishing the machine's function. There is no power take-off involved; the hydraulics operate directly from the machine's engine.
7. Loaders have an automatic kick-out device (stop operating feature) which is usually adjustable up to full lift height.
8. Certain excavators have a platform for a swiveling crane (slewing ring).
9. Most heavy-duty machinery will have counterweights and counterbalancing to assure optimal machine performance. Without this feature operation would be very unstable at best.
10. These machines are not readily adaptable to other types of attachments such as seed spreaders, harvesting machines and plows. Only tractors have such versatility designed-in.
11. Industrial machines have special gearing to allow for back and forth work at

roughly the same speed. For example, they allow for instantaneous button-operated forward and reverse at the same selected gear. They incorporate specialized transmissions to allow for the frequent changes in load and direction. Hydraulic clutches and torque converters are now common features of both tractors and machines.

## **PARTS**

The classification of parts of tractors and machines provides a challenge equal to that of classifying the machines themselves. Close attention must be paid to the various legal notes and Explanatory Notes as they set forth classification guidelines and directions. The process is complicated further because parts for tractors are provided for in Section XVII while parts for machines are found in Section XVI and there are differences in the classification guidelines for the two sections.

The legal notes to Section XVII, wherein heading 8701 is found, also cover the classification of the parts of the tractors of heading 8701. Generally, tractor parts are classified in heading 8708, which provides for parts and accessories of the motor vehicles of headings 8701 to 8705. However, not every article that is a part of a tractor is classified under the subheading for parts in the HTSUSA.

Section XVII legal notes 2 and 3 are important starting points for the classification of the parts of the tractors of heading 8701 as follows:

2. The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this section:
  - (a) Joints, washers or the like of any material (classified according to their constituent material or in heading 8484) or other articles of vulcanized rubber other than hard rubber (heading 4016)
  - (b) Parts of general use, as defined in note 2 to section XV, of base metal (section XV) or similar goods of plastics (chapter 39)
  - (c) Articles of chapter 82 (tools)
  - (d) Articles of heading 8306
  - (e) Machines or apparatus of headings 8401 to 8479, or parts thereof articles of heading 8481 or 8482 or, provided they constitute integral parts of engines or motors, articles of heading 8483
  - (f) Electrical machinery or equipment (chapter 85)
  - (g) Articles of chapter 90

- (h) Articles of chapter 91
  - (ij) Arms (chapter 93)
  - (k) Lamps or lighting fittings of heading 9405 or
  - (l) Brushes of a kind used as parts of vehicles (heading 9603).
3. References in chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

Section XVII note 2 lays out a listing of exclusions - those goods which are not to be classified as a part or accessory within any such headings in the section. If an article is found among this list of exclusions, then it cannot be classified in Section XVII. For example, if a component part of a tractor is a part of general use as defined in Note 2 to Section XV, then it is excluded from classification in heading 8708 for our purposes by Section XVII Note 2(b). See HQ ruling 954932, dated November 12, 1993, for an example.

Section XVII note 3 provides that for parts and accessories to be classified as such in Section XVII they must be suitable for use solely or principally with the articles of the section. Additionally, a part or accessory that is described by two or more of the headings of chapters 86 to 88 must be classified as a part or accessory for the vehicle in which it is principally used. For example, a drive axle imported for use in an agricultural tractor of subheading 8701.90 may be capable of installation on another vehicle of headings 8701 to 8705. However, if because of its design the drive axle is principally used on agricultural tractors of subheading 8701.90, it would be classified in subheading 8708.50.70 in accordance with section XVII note 3 as a drive axle for tractors suitable for agricultural use.

The General Rules of Interpretation (GRIs) also play a critical role in the classification of tractor parts as well. If an article is more specifically provided elsewhere than as a part in heading 8708, by virtue of the GRIs, then it will be classified in the more specific heading, despite the fact that it is not among the exclusions of Section XVII Note 2 and is suitable for use solely or principally with the goods of Section XVII within the strictures of Section XVII Note 3. For example, certain tires that might only be appropriate for use on agricultural tractors may be considered as a tractor part in chapter 87 but are in fact classified in HTS heading 4011 because that heading specifically provides for pneumatic tires of rubber. The heading further provides, at the subheading level, for tires of a kind used on agricultural machinery. See HQ ruling 961043, dated November 12, 1998 for an example. The language of heading 4011 is more exclusive than the language of heading 8708, hence more difficult to satisfy and therefore more specific.

The Explanatory Notes reiterate the process just outlined and provide ample specific guidance on product coverage as well:

### **(III) PARTS AND ACCESSORIES**

It should, however, be noted that these headings [of Section XVII] apply **only** to those parts or accessories which comply with **all three** of the following conditions:

(a) They must not be excluded by the terms of Note 2 to this Section....

and (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88....

and (c) They must not be more specifically included elsewhere in the Nomenclature....

The ENs provide a partial listing of those goods more specifically provided elsewhere than as parts of Section XVII:

#### **(C) Parts and accessories covered more specifically elsewhere in the Nomenclature.**

Parts and accessories, even if identifiable as for the articles of this Section, are **excluded** if they are covered more specifically by another heading elsewhere in the Nomenclature, e.g. :

1. Profile shapes of vulcanised rubber other than hard rubber, whether or not cut to length (heading 40.08).
2. Transmission belts of vulcanised rubber (heading 40.10).
3. Rubber tyres, interchangeable tyre treads, tyre flaps and inner tubes (headings 40.11 to 40.13).
4. Tool bags of leather or of composition leather, of vulcanised fibre, etc. (heading 42.02).
5. Bicycle or balloon nets (heading 56.08).
6. Towing ropes (heading 56.09).
7. Textile carpets (Chapter 57).
8. Unframed safety glass consisting of toughened or laminated glass, whether or not shaped (heading 70.07).
9. Rear-view mirrors (heading 70.09 or Chapter 90 - see the corresponding Explanatory Notes).
10. Unframed glass for vehicle headlamps (heading 70.14) and, in general, the goods of Chapter 70.
11. Flexible shafts for speed indicators, revolution counters, etc. (heading 84.83).

## 12. Vehicle seats of heading 94.01.

Subject to the General Rules of Interpretation and the Additional U.S. Rules of Interpretation, the classification of parts of the machinery covered by this publication is primarily governed by Note 2 to Section XVI:

Subject to note 1 to this section, note 1 to chapter 84 and to note 1 to chapter 85 [**these notes list exclusions**], parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

- (a) Parts which are goods included in any of the headings of chapters 84 and 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8485, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings
- (b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517
- (c) All other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8485 or 8548.

The first category of parts includes those parts specifically provided for in the headings in Chapters 84 or 85 and thereby classified therein. (See General Explanatory Note II to Section XVI on Parts). For example, pumps and compressors are provided for by name in headings 8413 and 8414, respectively.

The second category of parts, covered by Section Note 2(b), covers those parts which may have general use with various machines but can be recognized as being parts of particular machines of the same heading by virtue of being suitable for use solely or principally with the machines in question. Most of the headings of Section XVI provide for "parts thereof" of the machinery in those headings. By this rule, if a part is suitable for use solely or principally with a particular kind of machine or a number of machines of the same heading, then it is classified under the parts thereof provision(s). However, as the General Explanatory Note on parts states, there are separate parts headings for machines of related headings. Thus, for example, parts suitable for use solely or principally with the engines of headings 8407 and 8408 are provided for in heading 8409 while the parts of the machinery of headings 8425 to 8430 are provided for in heading 8431.

The third category of parts, covered by Section Note 2(c), are those used in machines of HTS headings 8701, 8429, and 8430 but are not “suitable for use solely or principally with” these machines. Such parts if normally used with machines of more than one heading are classified in one of the parts groups cited in the note or, failing that, in heading 8487 or 8548. For example, a fuel tank which is principally used on several machines of headings 8429 and 8430, with neither heading providing the principal use, would still be classified in heading 8431. However, a fuel tank which may be used in the machinery of headings 8429, 8432, and 8436 would be classified in heading 8487 if not principally used in any one of the machines or headings cited.

It is important to note that a new statistical breakout was established in 2009 for “parts: steel forgings” under headings 8431 and 8708. Steel forgings are described in the Subheading Explanatory Notes to 7326.11 and 7326.19 as being unfinished articles that have been forged. Excluded under these chapter 73 ENs are “forgings which are products falling into other headings...or unfinished forgings which require further working but have the essential character of such unfinished products”. This is in accordance with GRI 2(a). Therefore, forged steel parts which have the essential character of the final part, but are not in the final state or a part of an assembly, at the time of importation, would be classified under the statistical breakout as “parts: steel forgings”.

The classification of the parts of the vehicles and machines of this publication is to be approached cautiously and strictly guided by the section and chapter notes and the appropriate ENs. As a helpful guide we are including below a list of some of the provisions where the more common of the parts of these vehicles and machines are classified. Please note that this list is advisory only and does not reflect the official CBP position on how all parts thus identified should be classified.

<b>Description</b>	<b>HTSUS</b>
Air conditioners	8415
Alternators, spark plugs & other starting equipment	8511
Batteries, electric storage-type	8507
Bearings, ball or roller type	8482
Bearings, housed or plain shaft type	8483
Belts, rubber	4010
Bolts, nuts, pins, rivets & other steel fasteners	7318
Cable, harnesses & wiring, electrical	8544
Cable, non-electric, of steel	7312 <sup>a</sup>
Camshafts, crankshafts & other transmission shafts	8483 <sup>b</sup>
Chain, steel	7315
Clutches (including PTO's), flywheels & pulleys	8483 <sup>b</sup>
Conveyors, hoists, winches & loading machinery	8428
Electrical fuses, relays & switches	8536

Electrical resistors	8533
Electrical transformers	8504
Fans, blowers & compressors (incl. turbochargers)	8414
Filters	8421
Flywheels	8483 <sup>b</sup>
Gauges for measuring liquids or gases	9026
Gaskets, washers & other seals of cork	4504
Gaskets, washers & other seals of paper	4823
Gaskets, washers & other seals of plastic	3926
Gaskets, washers & other seals of rubber	4016
Gasket kits with gaskets of dissimilar composition	8484
Gears, gearing, gear boxes & other speed changers	8483 <sup>b</sup>
Generators	8511
Hinges & other fittings & mountings of base metal	8302
Horns & other sound or visual signaling equipment	8512
Hoses, rubber	4009
Knives & cutting blades for machinery	8208
Motors, electric	8501
Motors, hydraulic or pneumatic (incl. cylinders)	8412
Pulleys	8483 <sup>b</sup>
Seats & other furniture	9401
Snowblowing Attachments	8430
Springs, steel	7320
Thermostats	9032
Tires	4011
Tool kits consisting of different handtools	8205
Valves	8481
Windshield/window safety glass	7007

<sup>a</sup> If the cables assume the character of articles of another heading they are classified as a part of the article they control. See HQ ruling 953111 of January 4, 1993.

<sup>b</sup> If these are suitable for use solely or principally in the vehicles of Chapter 87 vehicles and are integral parts of engines, they are classifiable in heading 8483; if not integral parts of engines, then they are classifiable in heading 8708. See Section XVII Note 2 (e).

## **ADDITIONAL INFORMATION**

### **The Internet**

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, the "Know Before You Go" publication and traveler awareness campaign is designed to help educate international travelers.

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

### **Customs Regulations**

The current edition of Customs and Border Protection Regulations of the United States is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound edition of Title 19, Code of Federal Regulations is also available for sale from the same address. All proposed and final regulations are published in the Federal Register, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the Federal Register may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly Customs Bulletin described below.

### **Customs Bulletin**

The Customs Bulletin and Decisions ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the Customs Bulletin. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.



## **Importing into the United States**

This publication provides an overview of the importing process and contains general information about import requirements. The current edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The current edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

## **Informed Compliance Publications**

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About:...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

## Value Publications

*Customs Valuation under the Trade Agreements Act of 1979* is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system.

*Customs Valuation Encyclopedia* (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

## **“Your Comments are Important”**

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

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