

these headings. See Treasury Decision (T.D.) 89–80, 54 FR 35127, 35128 (August 23, 1989).

The General EN to Chapter 7, HTSUS, provides, in pertinent part, that this Chapter covers vegetables, including the products listed in Note 2 to the Chapter, whether fresh, chilled, frozen (uncooked or cooked by steaming or boiling in water), provisionally preserved or dried (including dehydrated, evaporated or freeze-dried), and that some of these products when dried and powdered are sometimes used as flavoring materials but nevertheless remain classified in heading 07.12. The EN further states that vegetables prepared or preserved by any process not provided for in Chapter 7 fall in Chapter 20. The EN for heading 07.12 states, in pertinent part, that the heading covers vegetables of headings 07.01 to 07.11 which have been dried (including dehydrated, evaporated or freeze-dried) *i.e.*, with their natural water content removed by various processes. The EN further provides that heading 0712, HTSUS, covers dried vegetables, broken or powdered, such as asparagus, cauliflower, parsley, chervil, onion, garlic, celery, generally used either as flavouring materials or in the preparation of soups. The EN for heading 20.05 states, in pertinent part, that the heading covers products (other than vegetables prepared or preserved by vinegar or acetic acid of heading 20.01, frozen vegetables of heading 20.04 and vegetables preserved by sugar of heading 20.06) that have been prepared or preserved by processes not provided for in Chapter 7 or 11.

Elaboration of the Petitioner's Views

Petitioner contends that the proper classification for the subject dried onion products is subheading 0712.20.20, HTSUS, which provides for “Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared: Onions: Powder or flour.” Petitioner contends that the subject onion products are (1) preserved by drying and, therefore, excluded from Chapter 20, HTSUS; (2) neither “preserved” nor “prepared” in a manner covered by Chapter 20, HTSUS; and (3) not “prepared” or “preserved” under the “common and commercial meaning” of those terms. Specifically, Petitioner argues that the subject dried onion products are neither prepared nor preserved because the small quantities of salt or preservatives do not create a permanent change to the onion powder. In support of its argument, Petitioner relies on Headquarters Ruling Letter (HQ) H243645 (September 30, 2015) wherein CBP classified dried sliced and diced potatoes with added sodium

bisulfate under subheading 0712.90.30, HTSUS, as dried potatoes not further prepared. In HQ H243645, CBP determined that sodium bisulfite simply preserved the potatoes’ freshness, color and flavor, and did not further prepare the product.

Petitioner asserts that to the extent the products are mixtures of multiple ingredients, the essential character of these products remains onion powder and therefore they should be classified under 0712.20.20, HTSUS, pursuant to GRI 3(b). Petitioner also argues that classifying such products as “prepared” or “preserved” is contrary to the intention to protect domestic production of dried onion as indicated by the high tariff rate applicable to dried onion and dried onion powder.

Analysis Used by CBP in Prior Rulings

Subheading 2005.99.20, HTSUS, provides for “Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Other vegetables and mixtures of vegetables: Other: Onions.” The EN for heading 07.12 provides guidance that the heading covers dried vegetables in powder form, including onion, not otherwise prepared. If a dried vegetable product is prepared beyond the scope of heading 0712, HTSUS, it will be precluded from classification in that heading and classifiable in heading 2005, HTSUS.

In the rulings at issue, the dried onion products are comprised of dried onion powder and varying additional ingredients. Specifically, NY N265994 classified agglomerated onion powder consisting of 94.5% dried onion powder, 5% water, and 0.5% of maltodextrin, silicon dioxide, and potassium sorbate combined. NY N261449 classified onion and salt powders blended in five different formulations: 91% onion powder and 9% salt; 93% onion powder and 7% salt; 95% onion powder and 5% salt; 97% onion powder and 3% salt; and 99% onion powder and 1% salt. NY N257752 classified five products, two of which were comprised of onion powder and salt. The first consisted of 80% onion powder and 20% salt and the second consisted of 90% onion powder and 10% salt. Finally, NY M86441 classified agglomerated onion powder consisting of 88.5% dehydrated onion powder, 5% water, 4% corn starch, 1% Arabic gum, 1% silicon dioxide, and 0.5% citric acid. CBP determined that the addition of salt and other ingredients, regardless of the proportions, further prepared the onion powder beyond the scope of heading

0712, HTSUS. Thus, these dried onion products were classified pursuant to GRI 1 in subheading 2005.99.20, HTSUS, as onions prepared or preserved otherwise than by vinegar or acetic acid.

Comments

Pursuant to section 175.21, CBP Regulations (19 CFR 175.21), before making a determination on this matter, CBP invites written comments on the petition from interested parties.

The domestic interested party petition concerning the tariff classification of certain dried onion products, as well as all comments received in response to this notice, will be available for public inspection on the docket at www.regulations.gov.

Authority

This notice is published in accordance with 19 U.S.C. 1516 and section 175.21 of the CBP Regulations (19 CFR 175.21).

Troy A. Miller, the Acting Commissioner, having reviewed and approved this document, is delegating the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the **Federal Register**.

Dated: August 6, 2021.

Robert F. Altneu,

Director, Regulations & Disclosure Law Division, Regulations & Rulings, Office of Trade, U.S. Customs and Border Protection.

[FR Doc. 2021–17142 Filed 8–10–21; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2021–0029]

Receipt of Domestic Interested Party Petition Concerning the Tariff Classification of Steel Table Pans

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: U.S. Customs and Border Protection (CBP) has received a petition submitted on behalf of a domestic interested party requesting the reclassification, under the Harmonized Tariff Schedule of the United States (HTSUS), of certain steel table pans. CBP currently classifies the subject steel

table pans under subheading 7323.93.00, HTSUS, as table, kitchen or other household articles and parts thereof of iron or steel, other, other, of stainless steel. Petitioner contends that the proper classification for the subject steel table pans is under subheading 8419.90.95, HTSUS, as parts of steam tables, which are machinery for the treatment of materials by a process involving a change of temperature such as . . . steaming, other than machinery of a kind used for domestic purposes. This document invites comments with regard to the correctness of the current classification.

DATE: Comments must be received on or before October 12, 2021.

ADDRESSES: You may submit comments, identified by docket number, by the first method listed below:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2021-0029.
- *Mail:* Due to COVID-19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

Instructions: All submissions received must include the agency name and docket number for this notice of domestic interested party petition concerning the tariff classification of steel table pans. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents, exhibits, or comments received, go to <http://www.regulations.gov>. Due to the relevant COVID-19-related restrictions, CBP has temporarily suspended on-site public inspection of public comments.

FOR FURTHER INFORMATION CONTACT:

Anthony L. Shurn, Electronics, Machinery, Automotive, and International Nomenclature Branch, Regulations and Rulings, Office of Trade, Customs and Border Protection, at (202) 325-0218, or by email at anthony.l.shurn@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of The Vollrath Company, LLC (Vollrath or Petitioner), which is a commercial and consumer food service equipment manufacturer and supplier based in Sheboygan, Wisconsin. Vollrath meets all of the requirements of a domestic interested party set forth in 19 U.S.C. 1516(a)(2) and section 175.3(a) in title

19 of the Code of Federal Regulations (CFR) (19 CFR 175.3(a)).

In New York Ruling (NY) C87748 (May 27, 1998), CBP's predecessor, the U.S. Customs Service (Customs), stated that "steam table pans and chafers of stainless steel" are "items [that] come in various sizes. They are intended to be placed in a steam table or in a food warmer to keep food hot. They can not [sic] be used on top of a stove." CBP classified the "steam table pans and chafers of stainless steel" under subheading 7323.93.00, HTSUS, which provides for "Table, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel: Other: Of stainless steel." Petitioner contends that the proper classification for the steel table pans is under subheading 8419.90.95, HTSUS, which provides for "Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, nonelectric; parts thereof: Parts: Other".

Applicable Legal Principles

Classification under the HTSUS is determined in accordance with the General Rules of Interpretation (GRIs) and, in the absence of special language or context which otherwise requires, by the Additional U.S. Rules of Interpretation (ARIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, GRIs 2 through 6 may be applied in order.

The Explanatory Notes (ENs) to the Harmonized Commodity Description and Coding System represent the official interpretation of the tariff at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See Treasury Decision (T.D.) 89-80, 54 FR 35127, 35128 (August 23, 1989). The EN for heading 73.23, states, in pertinent part, that this

group comprises a wide range of iron or steel articles, not more specifically covered by other headings of the Nomenclature, used for table, kitchen or other household purposes; it includes the same goods for use in hotels, restaurants, boarding-houses, hospitals, canteens, barracks, etc. The EN further states, in pertinent part, that the group includes articles for kitchen use such as steamers and preserving pans and that the group also includes iron or steel parts of the article listed above such as separating compartments for pressure cookers.

Elaboration of Petitioner's Views

Petitioner contends that the proper classification for the subject steel table pans is subheading 8419.90.95, HTSUS, which provides for "Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, nonelectric; parts thereof." Petitioner contends that between the classifications that merit consideration, heading 8419, HTSUS, is the most appropriate because steel table pans are not table, kitchen or other household articles of heading 7323, HTSUS. Petitioner further states that classification of the steel table pans as a part of steam tables and commercial chafers within heading 8419, HTSUS, is supported by the tariff headings, the EN to heading 8419, HTSUS, and court decisions that establish the definition of a "part."

Petitioner contends that steam tables are classified under subheading 8419.81.90, HTSUS, in reliance upon Customs' ruling in NY N836798 (February 22, 1989), which classified a food warmer used to transport food to various areas located within commercial establishments, and the EN to heading 84.19. Subheading 8419.81.90, HTSUS, provides for "Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for

domestic purposes: Other machinery, plant and equipment: For making hot drinks or for cooking or heating food: Other.”

According to the Petitioner, steam tables, which are gas or electric powered machines used in commercial food service operations to heat and hold prepared food, are a type of steam-heated cooker, and that steam tables are appropriately classified under heading 8419, HTSUS, in reliance upon Part I (17) to EN 84.19, which includes specialized heating or cooking apparatus which are not normally used in the household (e.g., steam-heated cookers, hot-plates, warming cupboards, drying cabinets, etc.). Petitioner asserts that the subject steel table pans are parts of steam tables in reliance upon the notes to Section XVI, HTSUS, which provide, in pertinent part, that parts and accessories, if suitable for use solely or principally with a particular kind of machine, instrument or apparatus, or with a number of machines, instruments or apparatus of the same heading are to be classified with the machines, instruments, or apparatus of that kind. Petitioner advises that the subject steel table pans are specifically designed to fit within the standard size well of a steam table, transfer heat from the steam to the food, and withstand extended exposure to steam, and therefore, that the steel table pans are principally used with steam tables.

Petitioner advises that CBP’s rulings are inconsistent. Petitioner references NY C87748 (May 27, 1998) in which Customs classified steam table pans and chafers of stainless steel under subheading 7323.93.00, HTSUS; NY N199500 (January 24, 2012), in which CBP rejected classification of chafing dishes heated by sterno candles under subheading 8419.81.90, HTSUS, because the unit was not mechanical; and, NY C88591 (July 1, 1998), in which Customs classified a similar chafer set with water pan, food pan, and cover under subheading 8419.81.90, HTSUS. According to Petitioner, unlike the products of NY N199500, the steel table pans at issue here are not excluded from heading 8419 because they are specifically designed to be used with electric or gas-powered steam tables. Petitioner notes that the subject steel table pans should be classified in accordance with NY C88591 under heading 8419, HTSUS.

Analysis Used by CBP in Prior Rulings

Note 1(f) to Section XV, HTSUS, provides in pertinent part that this section does not cover articles of section XVI (machinery, mechanical appliances and electrical goods). Subheading

7323.93.00, HTSUS, provides, in pertinent part, for “Table, kitchen or other household articles and parts thereof, of iron or steel; iron or steel wool; pot scourers and scouring or polishing pads, gloves and the like, of iron or steel: Other: Of stainless steel.” CBP has classified stainless steel cookware, including chafing dishes and steam pans, under heading 7323, HTSUS, where the merchandise is not mechanical or electric. See NY C87748 and NY N199500. As noted above, however, in NY C88591, CBP’s predecessor classified a chafer set with water pan, food pan, and cover in subheading 8419.81.90, HTSUS.

Comments

Pursuant to section 175.21 of the CBP Regulations (19 CFR 175.21), before making a determination on this matter, CBP invites written comments on the petition from interested parties.

The domestic interested party petition concerning the tariff classification of certain steel table pans, as well as all comments received in response to this notice, will be available for public inspection on the docket at www.regulations.gov.

Authority

This notice is published in accordance with 19 U.S.C. 1516 and section 175.21 of the CBP Regulations (19 CFR 175.21).

Troy A. Miller, the Acting Commissioner, having reviewed and approved this document, is delegating the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the **Federal Register**.

Dated: August 6, 2021.

Robert F. Altneu,

Director, Regulations & Disclosure Law Division, Regulations & Rulings, Office of Trade, U.S. Customs and Border Protection.

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2020–0023]

Receipt of Domestic Interested Party Petition Concerning the Tariff Classification of Mixtures of Dried Garlic and Dried Onion

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: U.S. Customs and Border Protection (CBP) has received a petition submitted on behalf of a domestic interested party requesting the reclassification, under the Harmonized Tariff Schedule of the United States (HTSUS), of certain dried garlic and dried onion mixtures. CBP currently classifies the subject dried garlic and dried onion mixtures under subheading 0712.90.85, HTSUS, as mixtures of dried vegetables. Petitioner contends that the proper classification for the subject dried garlic and dried onion mixtures is under subheading 0712.90.40, HTSUS, as dried garlic. This document invites comments with regard to the correctness of the current classification.

DATES: Comments must be received on or before October 12, 2021.

ADDRESSES: You may submit comments, identified by docket number, by the first method listed below:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP–2020–0023.

- *Mail:* Due to COVID–19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

Instructions: All submissions received must include the agency name and docket number for this notice of domestic interested party petition concerning the tariff classification of dried garlic and dried onion mixtures. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents, exhibits, or comments received, go to <http://www.regulations.gov>. Due to the relevant COVID–19-related restrictions, CBP has temporarily suspended on-site public inspection of public comments.

FOR FURTHER INFORMATION CONTACT:

Tanya Secor, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, at (202) 325–0062, or by email at tanya.j.secor@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of Olam West Coast Inc. (Petitioner or Olam), which is an agri-business and