Authority

These determinations are being made under authority of the Tariff Act of 1930, title VII, as amended by the URAA. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: September 18, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–23980 Filed 9–26–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–360]

International Harmonization of Customs Rules of Origin

AGENCY: United States International Trade Commission.

ACTION: Request for public comment on draft rules for Harmonized System chapters 25, 26, and 27.

EFFECTIVE DATE: September 15, 1995.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (202–205–2595), or Lawrence A. DiRicco (202–205–2606). Questions with regard to specific chapters of the Harmonized Tariff Schedule of the United States (HTS) should now be directed to the following coordinators in view of product reassignments:

Chapters 1–24, 41–49—Ronald H. Heller (202–205–2596)
Chapters 25–40—Edward J. Matusik (202–205–3356)
Chapters 50–63—Janis L. Summers (202–205–2605)
Chapters 64–83, 86–89, 92–97—Lawrence A. DiRicco (202–205–2606)
Chapters 84–85, 90–91, 98–99—Craig M. Houser (202–205–2597)

Parties having an interest in particular products or HTS chapters and desiring to be included on a mailing list to receive available documents pertaining thereto should advise Diane Whitfield by phone (202–205–2610) or by mail at the Commission, 500 E St SW, Room 404, Washington, DC 20436. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. The media should contact Margaret O'Laughlin, Director, Office of Public Affairs (202–205–1819).

Background

Following receipt of a letter from the United States Trade Representative (USTR) on January 25, 1995, the Commission instituted Investigation No. 332–360, International Harmonization of Customs Rules of Origin, under section 332(g) of the Tariff Act of 1930 (60 FR 19605, April 19, 1995).

The investigation is intended to provide the basis for Commission participation in work pertaining to the Agreement on Rules of Origin (ARO), developed during the Uruguay Round of trade negotiations and adopted along with the Agreement Establishing the World Trade Organization (WTO), as part of the General Agreement on Tariffs and Trade (GATT) 1994.

The ARO is designed to harmonize and clarify nonpreferential rules of origin for goods in trade on the basis of the substantial transformation test; achieve discipline in the rules' administration; and provide a framework for notification, review, consultation, and dispute settlement. These harmonized rules are intended to make country-of-origin determinations impartial, predictable, transparent, consistent, and neutral, and to avoid restrictive or distortive effects on international trade. The ARO provides that technical work to those ends will be undertaken by the Customs Cooperation Council (CCC) (now informally known as the World Customs Organization or WCO), which must report on specified matters relating to such rules for further action by parties to the ARO. Eventually, the WTO Ministerial Conference is to ''establish the results of the harmonization work program in an annex as an integral part'' of the ARO.

In order to carry out the work, the ARO calls for the establishment of a Committee on Rules of Origin of the WTO and a Technical Committee on Rules of Origin (TCRO) of the CCC. These Committees bear the primary responsibility for developing rules that achieve the objectives of the ARO.

A major component of the work program is the harmonization of origin rules for the purpose of providing more certainty in the conduct of world trade. To this end, the agreement contemplates a 3-year CCC program, to be initiated as soon as possible after the entry into force of the Agreement Establishing the WTO. Under the ARO, the TCRO is to undertake (1) to develop harmonized definitions of goods considered wholly obtained in one country, and of minimal processes or operations deemed not to confer origin, (2) to consider the use of change in Harmonized System classification as a means of reflecting substantial transformation, and (3) for those products or sectors where a change of tariff classification does not allow for the reflection of substantial transformation, to develop supplementary or exclusive origin criteria based on value, manufacturing or processing operations or on other standards.

To assist in the Commission's participation in work under the Agreement on Rules of Origin (ARO), the Commission is publishing for public comment a draft of proposed rules for goods of chapters 25, 26, and 27 of the Harmonized System that are not considered to be wholly made in a single country. The rules rely largely on the change of heading as a basis for ascribing origin.

These proposals, which have been reviewed by interested government agencies, are intended to serve as the basis for the U.S. proposal to the Technical Committee on Rules of Origin (TCRO) of the Customs Cooperation Council (CCC) (now known as the World Customs Organization or WCO). The proposals do not necessarily reflect or restate existing Customs treatment with respect to country of origin applications for all current non-preferential purposes. Based upon a decision of the Trade Policy Staff Committee, the proposals are intended for future harmonization for the nonpreferential purposes indicated in the ARO for application on a global basis. They seek to take into account not only U.S. Customs' current positions on substantial transformation but additionally seek to consider the views of the business community and practices of our major trading partners as well. As such they represent an attempt at reaching a basis for agreement among the contracting parties. The proposals may undergo change as proposals from other administrations and the private sector are received and considered. Under the circumstances, the proposals should not be cited as authority for the application of current domestic law.

If eventually adopted by the TCRO for submission to the Committee on Rules of Origin of the World Trade Organization, these proposals would comprise an important element of the ARO work program to develop harmonized, non-preferential country of origin rules, as discussed in the Commission's earlier notice. Thus, in view of the importance of these rules, the Commission seeks to ascertain the views of interested parties concerning the extent to which the proposed rules reflect the standard of substantial transformation provided in the Agreement. In addition, comments are also invited on the format of the proposed rules and whether it is preferable to another presentation, such as the format for the presentation of the NAFTA origin or marking rules.

Forthcoming Commission notices will advise the public on the progress of the TCRO's work and will contain any harmonized definitions or rules that have been provisionally or finally adopted.

Written Submissions

Interested persons are invited to submit written statements concerning this phase of the Commission's investigation. Written statements should be submitted as quickly as possible, and follow-up statements are permitted; but all statements must be received at the Commission by the close of business on October 20, 1995, in order to be considered in the drafting of the final U.S. proposal to the TCRO. Information supplied to the Customs Service in statements filed pursuant to notices of that agency has been given to us and need not be separately provided to the Commission. Again, the Commission notes that it is particularly interested in receiving input from the private sector on the effects of the various proposed rules and definitions on U.S. exports. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Office of the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Issued: September 18, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

Annex—Draft Proposal by The United States Harmonized Rules of Origin

Chapter 25—Salt; Sulphur; Earths and Stone; Plastering Materials, Lime and Cement

General Rule

Except as otherwise provided in the additional rules specified below, goods of this chapter that are not wholly obtained in one country are deemed to be goods of the last country where non-originating materials have undergone a change of classification to a heading of this chapter from any other heading, including another heading within the chapter.

Additional Rules

1. Goods which have been subjected to the following processes or have undergone a specified change of classification at the subheading level are deemed to be goods of the last country where such processes were performed or where the change of subheading occurred:

(a) Calcining of uncalcined materials of headings 25.11, 25.12, 25.18, 25.20, 25.28 or 25.30, provided the process results in a change in the chemical structure of such goods;

(b) A change to subheading 2517.30 (tarred macadam) from any other subheading;

(c) A change to tarred dolomite of subheading 2518.30 from subheadings 2518.10 or 2518.20; and

(d) Fusing of materials of headings 25.18 or 25.19.

Explanation

Except where the context of the heading permits additional processing (e.g., calcining, roasting, agglomeration, sintering, or other heat-treatment), Chapter 25 covers only minerals in their crude state. Goods of Chapter 25 that have been processed beyond that permitted by Chapter Note 1 tend to fall within Chapter 28 or Chapter 68.

Consequently, most goods of this chapter are in or nearly in their condition as extracted and many can be expected to be wholly obtained in a single country. With the notable exceptions of macadam of slag, dross or other industrial waste (subheading 2517.20), tarred macadam (subheading 2517.30), and certain slag cements (heading 25.23), most goods of the chapter cannot be derived from headings outside the chapter and will not undergo a change to a heading of Chapter 25 from a heading outside that chapter. Accordingly, the general rule of origin for Chapter 25 has been drafted to reflect this situation.

Within Chapter 25, most headings cover a distinct category of goods that are not derived from goods of other headings within the chapter. Again, exceptions occur, such as under heading 25.17 which includes crushed stone, chips, etc., of stone of other headings within the chapter. In those cases change in heading occurs and in our opinion reflects a substantial transformation (i.e., significant reduction in size). In some cases, a substantial transformation occurs, but there is no change in heading or only a change from one subheading to another subheading. To account for those situations, Additional Rules to the General Origin Rule have been provided:

Additional Rule 1(a) reflects the substantial transformation of uncalcined minerals of specified headings by calcination (a process that alters the chemical form of the mineral) where both uncalcined and calcined forms of the minerals fall within the same heading. We note here that the proposed rule would cover all the goods of the chapter where calcined goods remain to be classified in the chapter, except in the case of clays of headings 2507 and 2508. Calcining of clay serves merely to drive off water of hydration, does not result in modifying the chemical structure of the material, and does not result in substantially transforming the clay.

Additional Rule 1(b) reflects the substantial transformation of mineral products covered by other subheadings of Heading 2517 into tarred macadam by mixing with bituminous products of other chapters.

Additional Rule 1(c) reflects the substantial transformation of dolomite of subheadings 2518.10 or 2518.20 resulting from mixing with bituminous products of other chapters.

Additional Rule 1(d) reflects the substantial transformation of minerals of the specified headings by fusing where both the fused and untreated minerals fall within the same heading.

Draft Proposal by the United States Harmonized Rules of Origin

Chapter 26—Ores, Slag and Ash

General Rule

Except as otherwise provided in the additional rules specified below, goods of this chapter that are not wholly obtained in one country are deemed to be goods of the last country where non-originating materials have undergone a change of classification to a heading of this chapter from any other heading, including another heading within the chapter.

Additional Rules

1. Goods which have been subjected to the following processes or have undergone a specified change of classification at the subheading level are deemed to be goods of the last country where such processes were performed or where the change of heading or subheading occurred:

(a) Conversion of ores of headings 26.01 through 26.17 to concentrates of that group;

(b) Calcining or roasting of concentrates of headings 26.01 through 26.17, provided that the process results in a change in the chemical structure of the material.

Explanation

Except where the headings permit additional processing (e.g., roasting, agglomeration), Chapter 26 covers only ores (i.e., certain metalliferous minerals defined in Note 1 to the Chapter) in their crude state, concentrates of such ores derived by processes that do not alter the chemical composition of the basic material, ash and residues of a kind used in industry either for the extraction of metals or as a basis for the manufacture of chemical compounds, and all other ash and residues.

Most goods classified in this chapter are in or nearly in their condition as extracted, physically concentrated, or produced. In most cases it is expected that these goods will be wholly obtained in a single country.

With the exception of the ash and residues of headings 26.20 and 26.21, the goods of this chapter cannot be derived from goods classified outside the chapter. In most cases, these goods are unlikely to undergo a change of classification from one heading to another within the chapter. It is recognized that there could be cases where part of an ore may undergo a change of heading within the chapter (e.g., crude copper ores of heading 26.03 containing lead, silver, and gold, that are processed into copper concentrates of heading 26.03, lead concentrates of heading 26.07 and precious metal concentrates of heading 26.16).

Additional rule 1(a) reflects the substantial transformation resulting from the concentration of crude ores, even though a change of heading or subheading is unlikely to occur. Similarly, Additional rule 1(b) recognizes calcining or roasting of concentrates to be substantial transformations that confer origin.

Draft Proposal by the United States Harmonized Rules of Origin

Chapter 27—Mineral Fuels, Mineral Oils and Products Of Their Distillation; Bituminous Substances; Mineral Waxes

Chapter 27

General Rule

Except as otherwise provided in the additional rules specified below, goods of this chapter that are not wholly obtained in one country are deemed to be goods of the last country where non-originating materials have undergone a change of classification to headings of this chapter from any other heading, including another heading within the chapter.

Additional Rules

1. Goods of any heading or subheading of this chapter (other than heading 2709) which have undergone a chemical reaction, including refinery processes such as cracking, catalytic reforming, desulfurization (removal of bound sulfur) or dehydroalkylation, are deemed to be goods of the country where the reaction occurred.

2. Goods of headings 27.07 or 27.10 which have been formulated by blending are deemed to be goods of the country where blending occurred, provided the following conditions are satisfied:

(a) The goods have been deliberately blended to conform to specific predetermined physical specifications, such as boiling point range, viscosity, solidification temperature, random or motor octane numbers, or cetane number, which are different from the specifications of the input materials, and

(b) In the case of motor fuels (other than diesel fuels) or motor fuel blend stock, the good has undergone a minimum change of 10 octane units, and

(c) In the case of other goods, the product is suitable for end use without further processing and not more than 70 percent by weight of the product is composed of materials originating from a country other than the country where the blending occurred.

3. Goods of heading 27.11 which have undergone a deliberate process of separation into individual gases of heading 27.11 and residual components resulting from such separation are deemed to be goods of the country where the separation occurred.

4. Calcining of petroleum coke of subheading 2713.12 from uncalcined petroleum coke of subheading 2713.11 is deemed to have origin in the country where such process was performed.

5. The following processes are not to be considered origin-conferring:

(a) Cleaning, decanting, desalting, dewatering or dehydrating, filtering, coloring, or marking, separately or in combination, of any of the goods of chapter 27;

(b) Blending of materials of subheading 27.13.20 or heading 27.14 to produce goods of heading 27.15.

Explanation

Chapter 27 covers crude petroleum, bituminous materials, and crude products from the cracking, fractional distillation, or heating of these materials (such as coking). Chapter 27 also covers crude benzene, toluene, xylene, and other coal tar products. These are distinguished from the pure chemicals of chapter 29 by their purity levels. Crude coal tar products will have a purity range from 50 to 95 percent by weight, while products of chapter 29 tend to have a purity of 95 percent or higher.

Most goods of this chapter are the result of basic refinery operations, including cracking and fractional distillation. The inputs for these operations include coal, crude petroleum and petroleum gases, which are classified in chapter 27, and the outputs may remain to be classified in the same or other headings of this chapter or other chapters.

Certain refinery and formulation processes, such as blending of fuel components, are considered to result in substantial transformation for the purposes of conferring origin because the result of the operation is a product which possesses specific properties or characteristics that render it different (and further finished), than the starting material. The additional rules attempt to account for instances of substantial transformation where a change of heading or subheading does not occur, and these are detailed below.

In addition, there are several minor processes that would result in a change of subheading, but substantial transformation is deemed not to have occurred because the changes are either only changes in the physical state (i.e., from gas to liquid), or they represent only minor phases of refinery processing.

Additional Rule 1 reflects the processing of many materials that undergo a chemical reaction resulting in a substantial transformation, but without a change in classification necessarily occurring.

Additional Rule 2 reflects the transformation of raw materials to finished goods as a result of blending operations for goods of headings 27.07 and 27.10 that are classified within the same heading or subheading as the starting material. The rule requires discriminate blending in order to conform the product to stated requirements, such as those contained in ASTM standards, for origin to be conferred. Additional Rule 2(c) recognizes that the blending of covered products results in a substantial transformation in cases where no more than 70 percent by weight of the blending stock originates in a single country other than the country where the blending occurs.

Additional Rule 3 concerns the substantial transformation resulting from the physical separation of petroleum hydrocarbons into individual

gases and residual products. These processes do not include the incidental separation of individual components of a gas during its conveyance through a pipeline.

Additional Rule 4 reflects the substantial transformation of uncalcined petroleum coke of subheading 2713.12 to calcined petroleum coke of subheading 2713.11.

Additional Rule 5(a) enumerates preparatory operations involved in refineries and processing plants that are not considered to be origin conferring.

Additional rule 5(b) provides that blending of bituminous materials of subheading 27.13.20 or heading 27.14 to produce bituminous mixtures of heading 27.15 is not to be considered origin conferring.

[FR Doc. 95–23981 Filed 9–26–95; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–369]

Certain Health and Beauty Aids and Identifying Marks Thereon; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) in the above-captioned investigation terminating the investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Rhonda M. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3083.

SUPPLEMENTARY INFORMATION: On December 2, 1994, Redmond Products, Inc. filed a complaint with the Commission alleging a violation of section 337 of the Tariff Act of 1930 in the importation, the sale for importation, and the sale within the United States after importation of health and beauty aids bearing marks that infringe Redmond's registered and common law trademarks.

The Commission instituted an investigation of the complaint, and published a notice of investigation in the Federal Register on January 19, 1995. 60 FR 3,875 (1995). The notice named Belvedere International, Inc. of Ontario, Canada as respondent.

On July 13, 1995, complainant and respondent filed a joint motion to terminate the investigation on the basis of a settlement agreement. On August 25, 1995, the ALJ granted the joint motion and issued an ID (Order No. 17) terminating the investigation on the basis of a settlement agreement. No petitions for review were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

Copies of the ALJ's ID, and all other nonconfidential documents filed in connection with this investigation, are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: September 19, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–23979 Filed 9–26–95; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 94–01555 (HHG), D.D.C.]

United States v. AT&T Corporation and McCaw Cellular Communications, Inc.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States* v. *AT&T Corporation and McCaw Cellular Communications, Inc.*, Civil Action 94–01555 (HHG), United States District Court for the District of Columbia, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in Room 200 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW., Washington, DC 20530, and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, NW., Washington, DC 20001.

Constance Robinson,

Director of Operations, Antitrust Division.

United States District Court for the District of Columbia

In the Matter of: United States of America, Plaintiff, v. AT&T Corp. and McCaw Cellular Communications, Inc., Defendants. Civil Action No. 94–01555 (HHG). Received July 25, 1995.

Response to Public Comments to the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h) (1994) (''APPA''), the United States of America hereby files its Response to Public Comments to the proposed Final Judgment in this civil antitrust proceeding. The United States has reviewed the comments on the proposed Final Judgment and remains convinced that its entry is in the public interest.

A proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with this Court.[1] The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory sixty-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h).

I. Compliance with the APPA

The APPA requires a sixty-day period for the submission of public comments on the proposed Final Judgment, 15 U.S.C. 16(b). The United States has received four comments[2] and a response

[1] See 59 FR 44,158 (1994).

[2] Comments objecting to the proposed decree were submitted to the Department by Bell Atlantic and NYNEX (jointly), SBC Communications Inc. (''SBC''), BellSouth Corp. (''BellSouth'') and the Ad Hoc Association Long Distance Carriers (''Ad Hoc IXCs''). SBC requested permission from the Court to file supplemental comments on January 17, 1995; however, that request has not been granted by the Court. SBC's supplemental comments request that the decree be clarified and modified to provide that pending conversion of the McCaw systems to equal access, AT&T is prohibited from (1) expanding its calling areas, and (2) advertising its existing interLATA calling areas so as to disadvantage cellular systems that are competing with the McCaw systems. SBC also believes that AT&T should be required to restrict the scope of such calling areas pending conversion to equal access. AT&T's response to these comments asserts that it has not expanded the McCaw calling areas, and that the purpose of the proposed decree is not to establish identical calling areas with those of the Bell Operating Companies (BOCs). Further, AT&T maintains that to impose additional requirements pending the completion of its conversion to equal access this fall would simply encourage additional frivolous complaints with no competitive benefit and could delay the conversion of its cellular systems to equal access. The Department believes that the changes proposed by SBC are

Continued