



MTB 2019: Writing a Better Article Description

Travel Goods, Handbags, and Similar Containers; and Sporting Goods (Plus - Identifying and Avoiding Overlapping Article Descriptions)

Recorded September 11, 2019

This presentation is provided for your consideration in preparing for the 2019 MTB cycle. Any information furnished to you in this presentation, by email, or otherwise by Commission staff in the course of reviewing your petition should not be regarded as a staff opinion or an indication that the Commission will consider the article description you provide to be one that is administrable by U.S. Customs and Border Protection or that otherwise meets the requirements of the American Manufacturing Competitiveness Act of 2016.



MTB 2019: Writing a Better Article Description

Overview

- General concepts for writing an article description (*handout only*)
 - Tips for travel goods, handbags and similar containers
 - Tips for sporting goods
 - Overlapping descriptions: what it is; why it's important; and how to avoid
 - Summary and list of useful resources
-



MTB 2019: Writing a Better Article Description

Step One — Be sure that you know **where Customs classifies your product**.

Tip: When in doubt, seek a ruling! (Surprise--CBP might not agree with your broker.)

Link here to request an e-ruling: <https://erulings.cbp.gov/home>

Step Two — Go into the current HTS chapter, and **look at that tariff line's coverage and descriptive language**. See how this line fits into the structure of the heading and of surrounding provisions.

Tip: Your goods probably won't be the only product classified there! And remember that everyone can use your tariff line if it passes. The tariff provisions can give you "tried and true" language to use in a stand-alone chapter 99 heading.

Step Three — Plan to **create a verbal snapshot that distinguishes your product** at the dock from others in the same tariff provision.

Tip: Focus on visible physical characteristics first, then on listing necessary additional criteria that do not require lab tests or new legal interpretations.



MTB 2019: Writing a Better Article Description

Step Four -- Remember the Goldilocks principle in drafting—“just enough” product detail is best.

Tip: Don't include what you don't need—you'd need to prove your goods comply!

Step Five — Yes, *you can* cover an entire tariff category.

Tip: Don't use “other” as your article description, even if that is in the HTS, but beware the revenue loss cap! Covering an entire line avoids new terms that require interpretation, but may mean you only qualify for a duty reduction.

Step Six -- Think about your U.S. competitors—so *you can* avoid domestic producer objections!

Tip: Think about what makes your product different from theirs, and include (or exclude) that feature in writing your article description.

Step Seven — Go metric, and be careful with your “tariff grammar.”

Tip: Descriptions should be plural in coverage, but did you say how many of each named characteristic each article must have at the time of entry, and cover endpoints in a range? Take a look at the 9902 headings already in place for guidance.



MTB 2019: Writing a Better Article Description

Step Eight — Be complete. **If the right words are not in the “article description” box, we probably cannot add them.**

Tip: You know what makes your product unique better than anyone else!

Step Nine — **Do not give us a Customs ruling that covers a different product** in support of the classification you reference in the article description.

Tip: If you have *any* customs document that shows the HTS line where CBP liquidated the good, you can upload a confidential copy—we’d love to know how CBP has classified it, officially.

Step Ten — **Do not commit overlap**, especially not with another petition you have filed or later file!

Tip: Keep track of what is being filed by other firms for goods in the 8-digit HTS subheading covering your product, and check out our guidance on avoiding overlapping article descriptions. [You may not realize it, but “Widgets” and “Widgets, green” overlap when used as article descriptions in separate petitions.]

Do you need more help? Watch our web site for additional guidance, see what Congress passed after our first report and what failed, and send questions to MTBinfo@usitc.gov!



MTB 2019: Writing a Better Article Description

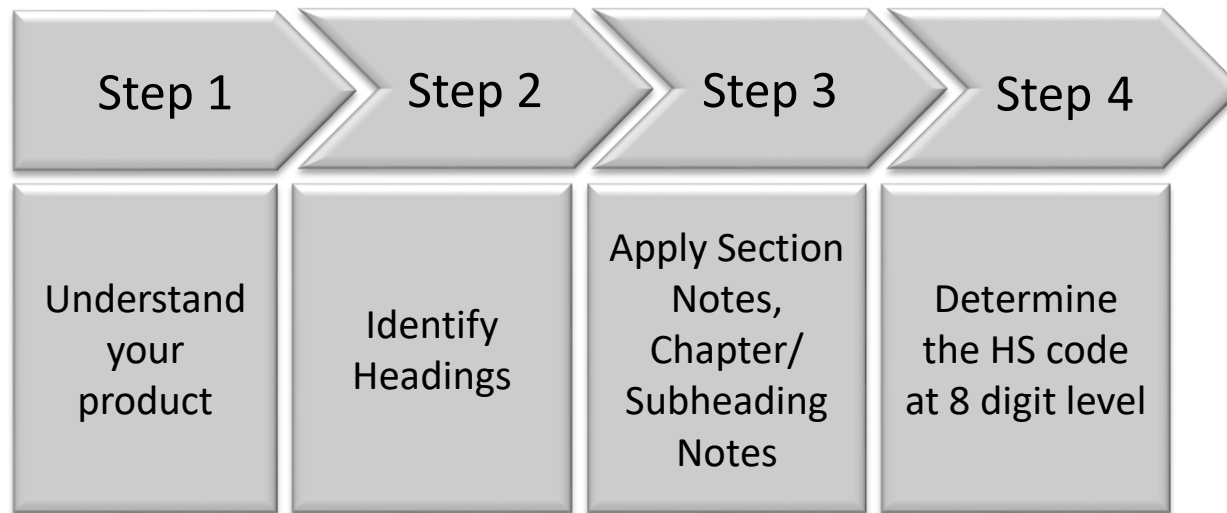
HTS Section XX: Miscellaneous Manufactured Articles

Chapter 95	Toys, games and sports requisites; parts and accessories thereof
-------------------	---

Heading 9506	Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof:
---------------------	--



MTB 2019: Writing a Better Article Description



<https://www.usitc.gov/>



MTB 2019: Writing a Better Article Description



Step 1. Understand your product

- Is it a complete article that can be used on its own without accessories? (e.g. medicine balls, rowing machine, dumbbells, Indian clubs)
- Is it a part or accessory that might fall under another chapter or tariff line? (e.g. strings for a racket, sports bags, sports gloves, or sporting clothing of textiles)



MTB 2019: Writing a Better Article Description



Step 2. Identify Headings

This section covers Heading 9506



MTB 2019: Writing a Better Article Description



Step 3. Apply Section Notes, Chapter/Subheading Notes

Section notes for HS 9506 identify the following criteria:

- Equipment for general physical exercise, gymnastics, or athletics
- Requisites for other sports and outdoor games (other than toys presented in sets, or separately, of heading 95.03), e.g. rackets, balls, skis, golf clubs and certain equipment, nets for various games.
- Swimming pools and paddling pools



MTB 2019: Writing a Better Article Description



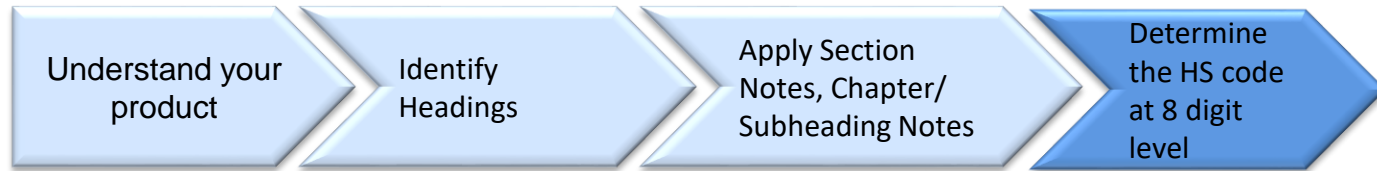
Step 3. Apply Section Notes, Chapter/Subheading Notes

Section notes for HS 9506 excludes certain articles, due to overlap with other Chapters, headings, or sections:

Examples: Racket strings (Chapter 39, heading 42.06, or Section XI); Sports bags (heading 42.02, 43.03, or 43.04; travel, sports, and similar bags; articles of apparel and clothing accessories); Sports gloves (heading 42.03, articles of apparel and clothing accessories); Sports clothing of textiles (Chapter 61 or 62); articles of apparel and clothing accessories, knitted or crocheted.



MTB 2019: Writing a Better Article Description



Steps 1-3 combine to help you identify your 8-digit HS code



Examples

Original: “Basketballs with an outer cover of rubber (provided for in subheading 9506.62.80)

Becomes: “**Inflatable** basketballs, each with an outer **surface** of rubber (provided for in subheading 9506.62.80)

Language is now consistent with the HTS, because we are specifying that these are “inflatable.”



MTB 2019: Writing a Better Article Description

9902.17.77: Inflatable basketballs, each with an outer surface of rubber (provided for
In subheading 9506.62.80)

Permanent tariff subheading

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity
9506.62		Inflatable balls:	
9506.62.40	40	Footballs and soccer balls.....
		Footballs.....	No.
	80	Soccer balls.....	No.
9506.62.80		Other.....
	20	Basketballs.....	No.



Examples

Original: “Racquetballs
(provided for in subheading
9506.69.40)

- Becomes: “**Noninflatable hollow** racquetballs, not over **19 cm in diameter** (provided for in subheading 9506.69.40)

Description now makes clear what the endpoints are of the diameter, which is listed in metric units. (It also uses “noninflatable” for consistency with HTS.)



MTB 2019: Writing a Better Article Description

9902.17.78: Noninflatable hollow racquetballs, not over 19 cm in diameter (provided for in subheading 9506.69.40)

Permanent tariff subheading

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity
9506.69		Other:	
9506.69.20	40	Baseballs and softballs.....	
	80	Baseballs.....	No.
	00	Softballs.....	No.
9506.69.40	00	Noninflatable hollow balls not over 19 cm in diameter.....	No.



Examples

Original: “Moisture resistant exercise and yoga mats of synthetic material (provided for in subheading 9506.91.00)

- Becomes: “Exercise and yoga mats of synthetic material (provided for in subheading 9506.91.00)

If CBP can't validate a stated attribute (i.e. “moisture resistance”) it should not be listed



MTB 2019: Writing a Better Article Description

Heading 4202

Travel Goods, Handbags and Similar Containers

Annotated for Statistical Reporting Purposes

VIII
42-3

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4201.00		Saddlery and harness for any animal (including traces, leads, knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material:				
4201.00.30	00	Dog leashes, collars, muzzles, harnesses and similar dog equipment.....	No.....	2.4% ^{1/}	Free (A*, AU, BH, CA, CL, CO, D, E, IL, JO, KR, MA, MX, OM, P, PA, PE, SG)	35%
4201.00.60	00	Other.....	No.....	2.8% ^{2/}	Free (A*, AU, BH, CA, CL, CO, D, E, IL, JO, KR, MA, MX, OM, P, PA, PE, SG)	15%
4202		Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels and similar containers:				
4202.11.00		With outer surface of leather or of composition leather.....		8% ^{1/}	Free (A, AU, BH,	35%



MTB 2019: Writing a Better Article Description

Heading 4202 has two sections, separated by a semicolon.

Section I precedes the semicolon:

Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers;

Section II follows the semicolon:

traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper:



MTB 2019: Writing a Better Article Description

Questions to consider when classifying your product in 4202:

- Does it provide storage, organization, portability and protection?
- Is it one of the named articles in the article description?
- Is it one of (or similar to) the articles in the first section or the second section?
- Is it wholly or mostly covered with one of the materials named in section II?



MTB 2019: Writing a Better Article Description

Additional U.S. Notes Applicable to Articles of Heading 4202

1. For the purposes of heading 4202, the expression “travel, sports and similar bags” means goods, other than those falling in subheadings 4202.11 through 4202.39, of a kind designed for carrying clothing and other personal effects during travel, including backpacks and shopping bags of this heading, but does not include binocular cases, camera cases, musical instrument cases, bottle cases and similar containers.
2. For purposes of classifying articles under subheadings 4202.12, 4202.22, 4202.32, and 4202.92, articles of textile fabric impregnated, coated, covered or laminated with plastics (whether compact or cellular) shall be regarded as having an outer surface of textile material or of sheeting of plastics, depending upon whether and the extent to which the textile constituent or the plastic constituent makes up the exterior surface of the article.



MTB 2019: Writing a Better Article Description

Important Information to Provide in Your Article Descriptions

- Give a breakdown of all materials used to construct the articles.
- Name and describe the material that makes up the outermost surface of the finished articles.
- Provide the fiber content of all textile materials by weight in percentage (e.g., 100% rayon; 70% cotton/30% nylon).
- Be specific on dimensions (use metrics); shape descriptions can also be helpful.
- State the value of the articles.
- Avoid abbreviations in your descriptions.
- Narrow the scope by specifying how your products differ from others in the same group.



MTB 2019: Writing a Better Article Description

Luggage



Example:

“Luggage sets consisting of a wheeled, soft-sided bag with less than 30 inches in height, with telescoping handle, and one or more bags, whether or not wheeled, all with outer surface of plastics (provided for in subheading 4202.12.21).”

Comments:

- State the number of pieces in the set.**
- Describe all the articles in the set.**
- Clarify the type of plastic, molded or plastic sheeting. “Soft-sided” could infer plastic sheeting but clearly state this information.**



MTB 2019: Writing a Better Article Description

Handbags



Example:

“Handbags, with or without shoulder strap or without handle, with outer surface of leather, composition or patent leather, valued between \$35.01-\$40.00 each (provided for in subheading 4202.21.90).”

Comments:

--Provide the outer dimensions of the handbag.

--The group described above is very broad. Narrow the article description by providing more specific information regarding the intended merchandise.



MTB 2019: Writing a Better Article Description



Travel, sports and similar bags

Example 1:

"Backpacks of outer surface of camouflage-printed woven 210 denier nylon oxford fabric, .049 - .073 cubic meters (3,000 cubic - 4,500 cubic inches) in volume, weighing 2.49 - 3.49 kg (5.5 - 7.7 lbs), valued \$82 - \$139 each, with PU coated interior and durable water repellent finish (DWR) finish which receives a 5 minimum result on ISO 4920 test (provided for in subheading 4202.92.31)."

Comments:

- Provide the fiber content of the fabric in percentage by weight (for example, 100% nylon).
- Clarify and write out all the abbreviations.
- Describe the water repellent finish.



MTB 2019: Writing a Better Article Description



Travel, sports and similar bags

Example 2:

"A retail set of 5 nylon drawstring bags, each bag less than 1 liter in volume (provided for in subheading 4202.92.91)."

Comments:

- This is administrable, but a more specific description is desirable.
- Provide the dimensions of the bags, as that is more helpful than volume information.
- Provide the fiber content of the fabric in percentage by weight. For example, 100% nylon or 60% nylon/40% cotton.



MTB 2019: Writing a Better Article Description



Travel, sports and similar bags

Example 3:

“Tote bags with outer surface of cotton, not of pile or tufted construction, with handles or straps, with partial or no top closure, with open central compartment, having at least one side exceeding 14 inches in length and gusset greater than 4 inches (provided for in subheading 4202.92.15).”

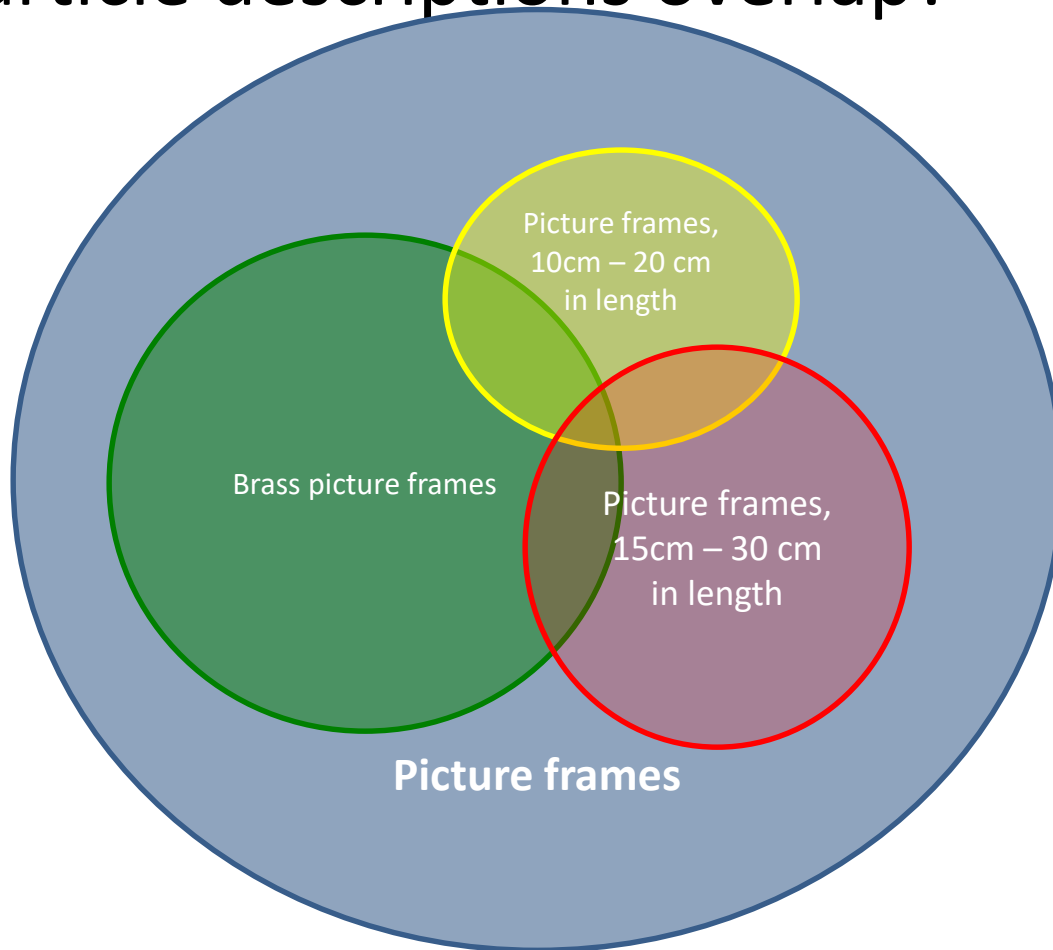
Comments:

- This article description will cover nearly all tote bags classified in this subheading. Narrow the scope.
- Provide the dimensions in metric terms, not in inches.
- Provide the fiber content of the fabric in percentage by weight. For example, 100% cotton or 60% cotton/40% polyester.



MTB 2019: Writing a Better Article Description

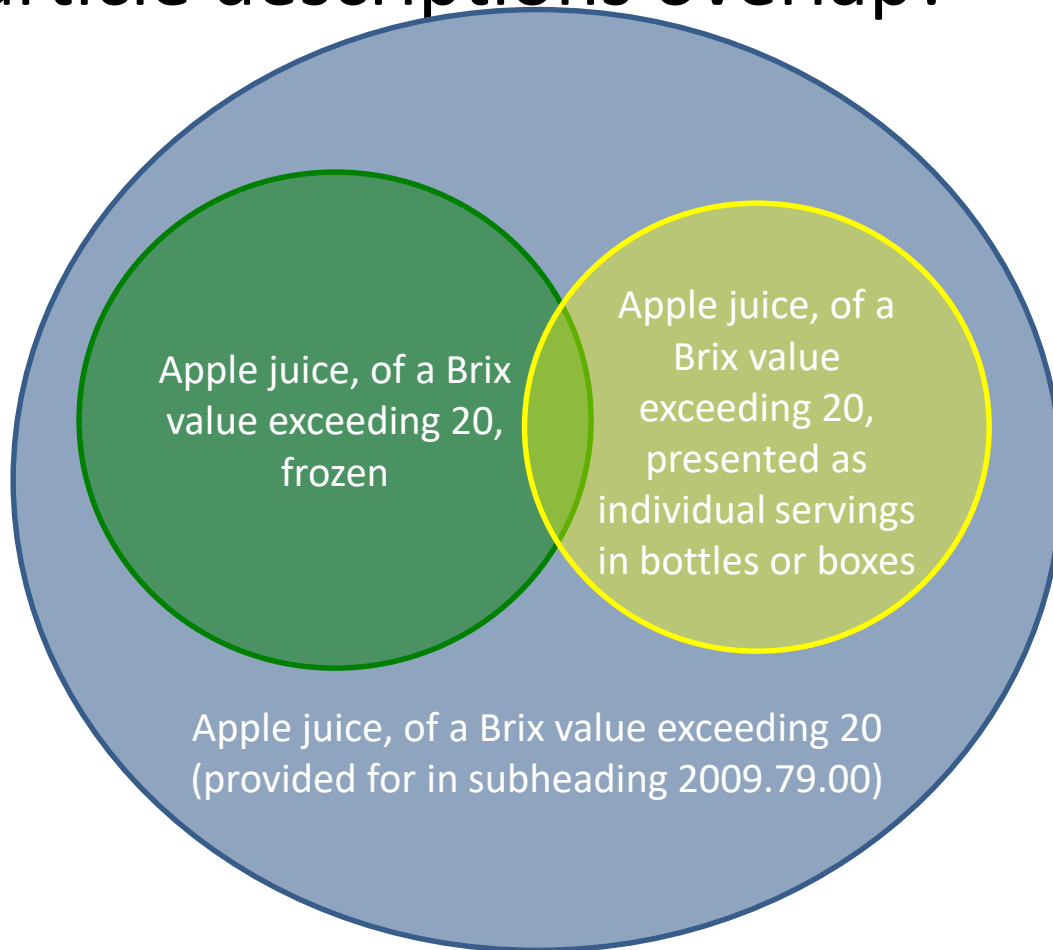
When do article descriptions overlap?





MTB 2019: Writing a Better Article Description

When do article descriptions overlap?





MTB 2019: Writing a Better Article Description

Why does it matter if article descriptions overlap?

- 1) Determining domestic production
- 2) Estimating revenue loss
- 3) Product coverage
- 4) Renewals



MTB 2019: Writing a Better Article Description

What result?

If the petition submission **window is still open**, you *may* be contacted by staff, alerting you to the overlap issue

- You may choose to withdraw and refile with an amended article description that does not overlap existing petitions

If the petition submission **window is closed**, you cannot amend your article description

- Does Commission Rule 220.7(b) apply?

§220.7(b)

Identical and overlapping petitions.

(1) A petition will not be considered to be properly filed if the petitioner has previously filed, and has not withdrawn, a petition for duty suspension or reduction during the current filing cycle:

- (i) For an article that is identical to that in the current petition;
- (ii) For an article whose article description includes the article covered by the current petition; or
- (iii) For an article that is included in the scope of the current petition.

(2) Should the Commission find that a petitioner has filed one or more identical or overlapping petitions and that such earlier filed petitions have not been withdrawn, the Commission will generally consider the earliest filed pending petition to be the petition of the petitioner.



MTB 2019: Writing a Better Article Description

Overlapping descriptions filed by different petitioners

Commission Rule 220.7(b) does not apply

The Commission *may*:

- Consolidate the overlapping petitions for the purposes of making a recommendation
- Recommend a technical correction to one or more of the overlapping descriptions to make them mutually exclusive



MTB 2019: Writing a Better Article Description

Overlapping descriptions filed by the same petitioner

Commission Rule **220.7(b)** applies

- The Commission will generally consider the earliest filed petition to be the properly filed petition.
- Later in time, not withdrawn, petitions may be considered not properly filed.

Please pay attention to:

- !! Certifications you make as part of your petition.
- !! Any correspondence from staff during the review period.



MTB 2019: Writing a Better Article Description

Suggestions for avoiding overlapping descriptions

- Keep a chart of your firm's petitions for each 8-digit HTS subheading and make sure they do not overlap. **Do not try to cover an entire rate line in 1 petition but also file several other petitions with subsets of the coverage.** When more physical features or functions are named for each petition, it can get harder to spot overlap.
- Watch what other petitioners file for each 8-digit HTS subheading, and regularly assess how petitions' article descriptions overlap. If you **file early**, Commission staff may be able to assist, but in the final week or so that may not be possible.
- Keep track of petitions that are withdrawn by any filers, to see if that affects your own petitions and the evaluation of overlap.



MTB 2019: Writing a Better Article Description

- Article descriptions are critical for success
 - (Re)Watch prior seminars for examples of various types
 - Check your tariff heading in HTS Search
 - Look at current provision in HTS chapter 99, Subchapter 2, for more examples of article descriptions
- Check [CROSS](#) rulings for your tariff heading
 - Accessible from HTS Search or on CBP website
- Seek an [e-ruling from CBP](#) as early as possible and include it with your petition
- Prepare early, file early – half of all petitions came in during the last 7 days, leaving little time for assistance



MTB 2019: Writing a Better Article Description

- Harmonized Tariff Schedule of the United States (HTS): <https://hts.usitc.gov/current>
- U.S. Customs and Border Protection:
 - Customs Rulings Online Search System (CROSS): www.rulings.cbp.gov
 - e-Rulings: www.erulings.cbp.gov
 - Informed Compliance Publications (ICPS): <https://www.cbp.gov/trade/rulings/informed-compliance-publications>
- DataWeb: <https://dataweb.usitc.gov/>



MTB 2019: Writing a Better Article Description

- **What's Coming Up**
 - Updating guidance
 - Portal Walk-Through session in October
- **Where to go**
 - For 2019 info: www.usitc.gov/mtb_landing.htm
 - For 2016 petitions and comments: <https://mtbps.usitc.gov>
 - For email updates: <https://www.usitc.gov/quicksubscribe.htm>
- **Who to contact**
 - mtbinfo@usitc.gov