

NOTE ON CHAPTER 86:

Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds.

Non-paper drafted by the Division for Africa, Least Developed Countries and Special Programmes (ALDC) of the United Nations Conference on Trade and Development (UNCTAD) in preparation of the AfCFTA 8th Technical Working Group Meeting on Rules of Origin¹

¹ This non-paper does not reflect the views of Member States, nor of the AU Secretariat. It has been drafted using the notes taken during the 7th TWG by the UNCTAD delegation and it simply aims to clarify some technical issues. UNCTAD thanks readers in advance for any corrections or suggestions to further improve its content.

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Acronyms and Abbreviations

AfCFTA	African Continental Free Trade Agreement
AU	African Union
CTH	Change of tariff heading
GIR	General Interpretative Rules
PSRO	Product Specific Rules of Origin
VNOM	Value of non-originating materials

1. Introduction

Chapter 86 of the Harmonized Commodity Description and Coding System (HS) covers locomotives and rolling stock, and parts thereof, and certain track fixtures and fittings, for railways or tramways of any kind (including narrow gauge railways, single rail railways, etc). It also covers containers specially designed and equipped for carriage by one or more modes of transport. Mechanical (including electro mechanical) signalling, safety or traffic control equipment for traffic of all kinds (including that for parking facilities) is also covered.

Chapter 86 is the first chapter of Section XVII (which covers vehicles, aircraft, vessels and associated transport equipment). It is important that the PSRO for metals and metal products establish and maintain a logical and coherent sequencing. Chapter 86 gives rise to a number of issues that are replicated in other chapters dealing with metals and their products.

As rules of origin for the whole of Chapter 86, Member States at the 8th TWG provisionally recommended a VNOM or CTH criterion as a chapter rule. In Heading 86.07 there were suggestions for a CTH without exceptions or a VNOM criterion rule. For Heading 86.08 a VNOM criterion rule was suggested while no exception was suggested against the initial draft rule in Heading 86.09.

A cross cutting issue across the chapter is the issue of assembly of parts into finished products of this chapter and the assembly of parts into parts of Heading 86.07.

Another issue of a technical nature is the introduction of a chapter rule recognizing the assembly of articles that are presented as unassembled or disassembled.

By virtue of HS GIR 2(a), goods presented unassembled or disassembled are to be classified as assembled goods, even though they are presented as a collection of parts. Accordingly, assembly of parts undertaken after importation does not result into a change of tariff classification.

It follows that if Member States wish to recognize the assembly of parts into a complete article as a substantial transformation, a corresponding chapter rule should be inserted. One possible formulation could be as follows:

“Origin is conferred to goods which are presented unassembled or disassembled as a form of collection of parts and further assembled in the country of importation, provided that none of the parts is classified in the same heading or subheading of the goods.”

2. Issue 1: Assembly of parts classified under Heading 86.07 into finished products of Headings 86.01 to 86.06

2.1. Headings 86.01 to 86.06

These headings mainly classify locomotives and passenger coaches. A CTH rule in this case would allow the use of non-originating materials classified in other HS chapters like steel parts, rolling sheets etc. A CTH rule would also classify as a substantial transformation the assembly of parts classified under Heading 86.07 (Parts of railway or tramway locomotives or rolling-stock) into finished products.

3. Issue 2: Heading 86.07 and Heading 86.08

3.1. Heading 86.07

Heading 86.07 (Parts of railway or tramway locomotives or rolling-stock) is composed of a series of subheadings as follows:

- *Bogies, bissel-bogies, axles and wheels, and parts thereof :*
 - 8607.11 -- *Driving bogies and bissel-bogies*
 - 8607.12 -- *Other bogies and bissel-bogies*
 - 8607.19 -- *Other, including parts*
- *Brakes and parts thereof :*
 - 8607.21 -- *Air brakes and parts thereof*
 - 8607.29 -- *Other*
 - 8607.30 -- *Hooks and other coupling devices, buffers, and parts thereof*
- *Other :*
 - 8607.91 -- *Of locomotives*
 - 8607.99 -- *Other*

A CTH rule for this heading would recognize that the use of non-originating materials classified in other HS chapters or headings (like steel components) to manufacture these products confers origin. However, some of these subheadings also mention parts: for example, subheading 8607.21 (Air brakes and parts thereof). It follows that assembly of parts can take place even within the subheadings of Heading 86.07. A CTH rule would not recognize such assembly as origin conferring.

If Member States wish to recognize such assembly as origin conferring, a possible technical solution could be as follows.

	Product description	Working or processing carried out on non-originating materials conferring originating status
8607.21	-- <i>Air brakes and parts thereof</i>	A change to brakes of this subheading from non-originating parts.

Alternatively, Member States could use a percentage value of non-originating materials.

	Product description	Working or processing carried out on non-originating materials conferring originating status
8607.21	-- <i>Air brakes and parts thereof</i>	Manufacture where the value non-originating used does not exceed X percent of the ex-works price of the product.

A similar technical solution may be available for other subheadings of Headings 86.07 and 86.08.