



HQ H320944

September 8, 2025

OT:RR:CTF:CPMMA H320944 RFC

CATEGORY: Classification

TARIFF NO.: 6911.10.1000

Center Director
Consumer Products and Mass Merchandising Center
Center of Excellence and Expertise
U.S. Customs and Border Protection
147 Tradeport Drive
Atlanta, GA 30354

ATTN: Gabriela Ruiz, Import Specialist

RE: Protest and Application for Further Review (AFR) No. 5206-21-100466;
Classification of Hotel and Restaurant Porcelain Tableware

Dear Center Director:

The following is our decision regarding the Application for Further Review (AFR) of Protest Number 5206-21-100466, timely filed on July 20, 2021, by Front of the House ("FOH Inc." or "Protestant"). This AFR concerns the classification by U.S. Customs and Border Protection (CBP), under the Harmonized Tariff Schedule of the United States (HTSUS) (2019), of certain hotel and restaurant porcelain tableware.

FACTS:

The merchandise in the protest was entered by the importer in 10-digit statistical reporting number 6911.10.5200, HTSUSA ("Annotated") (2019). A Notice of Action (CBP Form 29) dated March 19, 2021, was issued advising that the merchandise was classified in 10-digit statistical reporting number 6911.10.1000, HTSUSA (2019) and the merchandise was so liquidated.

In the instant protest, the Protestant contends that the merchandise is properly classified in 10-digit statistical reporting number 6911.10.5200, HTSUSA (2019) as tableware and kitchenware and other household articles of porcelain, rather than in 10-digit statistical reporting number 6911.10.1000, HTSUSA (2019) as hotel or restaurant tableware and kitchenware of porcelain.

The commercial invoice (F9406) dated April 12, 2019, for the entry lists the following merchandise: 6-inch round Kiln plate, item number DAP076MUP23; 1.5-ounce Kiln ramekin bowl, item number ASC023RDP23; 6-ounce Tides bowl, item number DB0148BEP22; and Mod plate, item number, DDP066WHP21.

As cited by the Protestant, on the Front of the House website (<https://frontofthehouse.com/>, last visited June 9, 2025) featuring the protest's merchandise, three of the items listed in the commercial invoice are listed as follows:

6" Round Kiln® Plate - Mushroom

Durable, high-temperature porcelain in organic shapes - with an earthy reactive glaze.

Product code: DAP076MUP23

1.5 oz Kiln® Ramekin - Chili

Durable, high-temperature porcelain in organic shapes, with a colorful reactive glaze.

Product code: ASC023RDP23

13" x 7" Mod® Plate

Modern style that promotes creativity and design for unique plating and serving applications.

Product code: DDP066WHP21

The following information concerning the Protestant appears on the same website:

Since our start in 2002, we have transformed an industry accustomed to the ordinary, by offering stylishly unexpected and uniquely trend-forward collections for hospitality and foodservice.

* * *

Front of the House offers something to complement every restaurant's or hotel's design aesthetic, and every chef's culinary vision.

* * *

Established in 2002, FOH is a global award-winning hospitality and foodservice brand, including Front of the House and room360 by FOH. Designed in Miami and delivered worldwide, FOH is your global solutions partner.

* * *

<https://frontofthehouse.com> (last visited June 9, 2025)

Another website featuring the Protestant's products, provides, in part, as follows:

Restaurants and chefs worldwide turn to Front of the House for our in-demand designs and commercial-grade durability that are key ingredients in our recipe for designing and manufacturing smart, savvy, tabletop and serving essentials.

www.amazon.com/stores/page/47BECE48-60BA-414D-970B-8DD16024FBDA (last visited June 9, 2025)

Other websites relating to the Protestant, state, in part, as follows:

Established in 2002, FOH® Worldwide is an award-winning hospitality and foodservice brand, that includes Front of the House® and room360. Based in Miami and shipped worldwide, FOH® has been considered the global solutions partner of the industry by providing collaborative and impactful products that deliver a WOW experience. More than just a brand, Front of the House® is the go-to solutions resource for B2B entities in the foodservice & hospitality industry.

www.linkedin.com/company/fohworldwide?trk=affiliated-pages (last visited June 9, 2025)

The hospitality industry looks to FOH® (Front of the House®) for tabletop & buffet presentation trends. Industry professionals have embraced FOH® since our inception in 2002 and we have been creating a plating revolution ever since. We have perfected the recipe of designing and manufacturing smart, savvy, commercial-grade serving solutions that are easy on your bottom line. By injecting the trade with all-encompassing dinnerware, buffet ware and serve ware collections, we'll make YOUR front of the house stand above the rest.

www.linkedin.com/company/frontofthehouse (last visited June 9, 2025)

ISSUE:

Whether the merchandise is properly classified as (1) hotel or restaurant tableware and kitchenware and other ware of porcelain not household ware, under 10-digit statistical reporting number 6911.10.1000, HTSUSA, or (2) other tableware and kitchenware and other household articles of porcelain, under 10-digit statistical reporting number 6911.10.5200, HTSUSA?

LAW AND ANALYSIS:

The protest was properly filed as a decision on classification under 19 U.S.C. § 1514(a)(2). The protest was timely filed within 180 days of liquidation of the entry. See 19 U.S.C. § 1514(c)(3). Moreover, further review of the protest is properly accorded to Protestant pursuant to 19 CFR § 174.24(b) because the decision against which the protest was filed is alleged to involve questions of law or fact which have not been ruled upon by the Commissioner of Customs or his designee or by the Customs courts.

Merchandise imported into the United States is classified under the HTSUS. The tariff classification of merchandise under the HTSUS is governed by the principles set forth in 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. The GRIs and the Additional U.S. Rules of Interpretation are part of the

HTSUS and are to be considered statutory provision of law for all purposes. See Sections 1204(a) and 1204(c) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. §§ 1204(a) and 1204(c)).

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule (*i.e.*, (1) merchandise is to be classified under the 4-digit heading that most specifically describes the merchandise; (2) only 4-digit headings are comparable; and (3) merchandise must first satisfy the provisions of a 4-digit heading before consideration is given to classification under a subheading within this 4-digit heading) and any relative section or chapter notes and, provided such headings or notes do not otherwise require, then according to the remaining GRIs.

GRI 6 prescribes that, for legal purposes, GRIs 1 to 5 shall govern, *mutatis mutandis*, classification at subheading levels within the same heading. Therefore, merchandise is to be classified at equal subheading levels (*i.e.*, at the same digit level) within the same 4-digit heading under the subheading that most specifically describes or identifies the merchandise.

Additional U.S. Rule of Interpretation 1(a) requires that “a tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use.”

With respect the material with which the instant merchandise is composed, Additional U.S. Chapter Note 5(a) to Chapter 69, HTSUS, provides as follows:

For the purposes of headings 6909 through 6914:

- (a) The terms “porcelain,” “china” and “chinaware” embrace ceramic ware (other than stoneware), whether or not glazed or decorated, having a fired white body (unless artificially colored) which will not absorb more than 0.5 percent of its weight of water and is translucent in thicknesses of several millimeters. The term “stoneware” as used in this note, embraces ceramic ware which contains clay as an essential ingredient, is not commonly white, will absorb not more than 3 percent of its weight of water, and is naturally opaque (except in very thin pieces) even when absorption is less than 0.1 percent.

The HTSUSA (2019) subheadings at issue are as follows:

6911.10.1000: Tableware, kitchenware, other household articles and toilet articles, of porcelain or china: Tableware and kitchenware: Hotel or restaurant ware and other ware not household ware.

6911.10.5200: Tableware, kitchenware, other household articles and toilet articles, of porcelain or china: Tableware and kitchenware: Other: Other: Cups valued over \$8 but not over \$29 per dozen; saucers valued over \$5.25 but not over \$18.75 per dozen;

soups, oatmeals and cereals valued over \$9.30 but not over \$33 per dozen; plates not over 22.9 cm in maximum diameter and valued over \$8.50 but not over \$31 per dozen; plates over 22.9 but not over 27.9 cm in maximum diameter and valued over \$11.50 but not over \$41 per dozen; platters or chop dishes valued over \$40 but not over \$143 per dozen; sugars valued over \$23 but not over \$85 per dozen; creamers valued over \$20 but not over \$75 per dozen; and beverage servers valued over \$50 but not over \$180 per dozen.

The Explanatory Notes to the Harmonized Commodity Description and Coding System (hereinafter "Harmonized System") represent the official interpretation of the Customs Cooperation Council on the scope of each heading. See H.R. Conf. Rep. No. 100-576, 100th Cong., 2d Sess. 549 (1988); 23 Customs Bulletin No. 36, 3 (T.D. 89-90, September 6, 1989), 59 F.R. 35127 (August 23, 1989). Although neither binding on the contracting parties to the Harmonized System Convention (which includes the United States) nor considered to be dispositive in the interpretation of the Harmonized System, the Explanatory Notes should be consulted on the proper scope of the Harmonized System. *Id.* In understanding the language of the HTSUS, the Explanatory Notes may be consulted and utilized.

The Explanatory Notes to headings 6911-6912 provide, in part, as follows:

69.12 - Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china.

Tableware, kitchenware, other household articles and toilet articles are classified in heading 69.11 if of porcelain or china, and in heading 69.12 if of other ceramics such as stoneware, earthenware, imitation porcelain (see General Explanatory Note to sub-Chapter II).

The headings therefore include :

- (A) Tableware such as tea or coffee services, plates, soup tureens, salad bowls, dishes and trays of all kinds, coffeepots, teapots, sugar bowls, beer mugs, cups, sauce-boats, fruit bowls, cruets, salt cellars, mustard pots, eggcups, teapot stands, table mats, knife rests, spoons and serviette rings.
- (B) Kitchenware such as stew-pans, casseroles of all shapes and sizes, baking or roasting dishes, basins, pastry or jelly moulds, kitchen jugs, preserving jars, storage jars and bins (tea caddies, bread bins, etc.), funnels, ladles, graduated kitchen capacity measures and rolling-pins.

There is no dispute that the merchandise is classified in heading 6911, HTSUS, specifically subheading 6911.10, HTSUS, as tableware, kitchenware, other household articles, of porcelain. Rather, the issue centers around whether the merchandise is classified within 8-digit subheading 6911.10.10, HTSUS (and specifically within 10-digit statistical reporting number 6911.10.1000) as hotel or restaurant tableware and kitchenware and other ware of porcelain not household ware, or within 8-digit

subheading 6911.10.52 (and specifically within 10-digit statistical reporting number 6911.10.5200) as other tableware and kitchenware and other household articles of porcelain.

Subheadings 6911.10.10 and 6911.10.52, HTSUS (2019), are principal use provisions, pursuant to Additional U.S. Rule of Interpretation 1(a), insofar as classification in these provisions is controlled by use. In *E.M. Chemicals v. United States*, 20 C.I.T. 382, 387; 923 F. Supp. 202, 208 (1996), the U.S. Court of International Trade addressed principle use under Additional U.S. Rule of Interpretation 1 to the HTSUS:

The principal use of the class or kind of goods to which an import belongs is controlling, not the principal use of the specific import. *Group Italglass U.S.A., Inc. v. United States*, 17 C.I.T. 1177, 1177, 839 F. Supp. 866, 867 (1993). “Principal use” is defined as the use “which exceeds any other single use.” *Conversion of the Tariff Schedules of the United States Annotated Into the Nomenclature Structure of the Harmonized System: Submitting Report* at 34-35 (USITC Pub. No. 1400) (June 1983). As a result, “the fact that the merchandise may have numerous significant uses does not prevent the Court from classifying the merchandise according to the principal use of the class or kind to which the merchandise belongs.” *Lenox Coll.*, 20 C.I.T., Slip Op. 96-30 at page 4.

* * *

When applying a “principal use” provision, the Court must ascertain the class or kind of goods which are involved and decide whether the subject merchandise is a member of that class. See *supra*; Additional US Rule of Interpretation 1 to the HTSUS. In determining the class or kind of goods, the Court examines factors which may include: (1) the general physical characteristics of the merchandise; (2) the expectation of the ultimate purchasers; (3) the channels of trade in which the merchandise moves; (4) the environment of the sale (e.g. the manner in which the merchandise is advertised and displayed); (5) the usage of the merchandise; (6) the economic practicality of so using the import; and (7) the recognition in the trade of this use. *United States v. Carborundum Co.*, 63 C.C.P.A. 98, 102, 536 F.2d 373, 377, cert. denied, 429 U.S. 979, 50 L. Ed. 2d 587, 97 S. Ct. 490 (1976); see also *Lenox Coll.*, 20 C.I.T., Slip Op. 96-30, at page 5.

In the instant case, the class or kind of goods that are in question are tableware and kitchenware of porcelain. The question to be decided is whether the goods under consideration are a member of that class or kind of tableware and kitchenware of porcelain that are principally used (i.e., use which exceeds any other single use) in a household rather than in a hotel or restaurant.

Consideration and review of the *Carborundum* Factors with respect to the instant merchandise is as follows:

(1) THE GENERAL PHYSICAL CHARACTERISTICS OF THE MERCHANDISE

As indicated above, the porcelain tableware under consideration is variously described as “durable, high-temperature porcelain” and “design[ed] for unique plating and serving applications.” Such descriptions are consistent with use in hotels and restaurants. And the record does not establish or support with any degree of certainty use of the instant merchandise in households that exceeds any other single use (i.e., use in hotels and restaurants).

(2) THE EXPECTATION OF THE ULTIMATE PURCHASERS

In view of the information from the above-referenced websites, it is clear that the instant merchandise is designed, manufactured, promoted and marketed for use in hotels and restaurants. Thus, the expectation of the ultimate purchasers with respect to the instant merchandise is for use in hotels and restaurants by hotel and kitchen personnel.

(3) THE CHANNELS OF TRADE IN WHICH THE MERCHANDISE MOVES

Given that the instant merchandise is designed, manufactured, promoted and marketed for use in hotels and restaurants, the channels of trade in which the merchandise moves is that for hotel and restaurant merchandise.

(4) THE ENVIRONMENT OF THE SALE (E.G. THE MANNER IN WHICH THE MERCHANDISE IS ADVERTISED AND DISPLAYED)

As indicated above, the merchandise is advertised and displayed and featured for use in hotels and restaurants.

(5) THE USAGE OF THE MERCHANDISE

As indicated above, the merchandise is advertised and displayed and featured for use in hotels and restaurants as tableware. And the record does not establish or support with any degree of certainty use of the instant merchandise in households that exceeds any other single use (i.e., use in hotels and restaurants).

(6) THE ECONOMIC PRACTICALITY OF SO USING THE IMPORT

As indicated above, the porcelain tableware under consideration is variously described as “durable, high-temperature porcelain” and “design[ed] for unique plating and serving applications.” Such descriptions are consistent with use in hotels and restaurants. And the record does not establish or support with any degree of certainty use of the instant merchandise in households that exceeds any other single use (i.e., use in hotels and restaurants).

(7) THE RECOGNITION IN THE TRADE OF THIS USE

As indicated above, the Protestant indicates that its merchandise (including instant merchandise) is recognized and celebrated by the hospitality and foodservice industries “FOH is a global award-winning hospitality and foodservice brand.”

In view of the above, the record does not support or establish that the instant goods are a member of a class or kind of tableware that is principally used (*i.e.*, use which exceeds any other single use) in a household. Rather, the evidence supports and establishes that the instant goods are a member of a class or kind of tableware that is principally used in hotels and restaurants. Thus, the instant goods cannot be classified as household tableware but must be classified as hotel and restaurant tableware.

HOLDING:

In accordance with the above analysis and by application of GRI 1, the instant merchandise is classified as hotel and restaurant tableware of heading 6911, HTSUS (2019), and specifically classified by application of GRI 6 in subheading 6911.10.1000, HTSUSA (2019), which provides for: “Tableware, kitchenware, other household articles and toilet articles, of porcelain or china: Tableware and kitchenware: Hotel or restaurant ware and other ware not household ware.” The column one, general rate of duty is 25 percent *ad valorem*.

You are instructed to DENY the protest in full.

You are instructed to notify the Protestant of this decision no later than sixty days (60) days from the date of this decision. Any reliquidation of the entry or entries in accordance with the decision must be accomplished prior to this notification. Sixty days from the date of the decision, the Office of Trade, Regulations and Rulings will make the decision available to CBP personnel, and to the public on the Customs Rulings Online Search System (“CROSS”) at <https://rulings.cbp.gov/> which can be found on the U.S. Customs and Border Protection website at <http://www.cbp.gov> and other methods of public distribution.

Sincerely,

Yuliya A. Gulis, Director
Commercial and Trade Facilitation Division