

ITEM: Cosmetic/esthetic appliance for home use, not registered as a medical device and not intended for the treatment of diseases. It is designed for use at home and in beauty or healthcare facilities. It is equipped with a halogen light source in conjunction with an optical unit to deliver supposedly therapeutic polarized light.

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## Tariff Classification Suggestion

### Phase 1

#### Top 3 candidate chapters

Chapter	Justification
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<b>85</b>	By GRI 1, classify by heading texts/notes; this is an electrical appliance with its own function. Within Ch. 85, 85.43 covers electrical machines/apparatus with individual functions not specified elsewhere. It is not merely a lamp or tube of 85.39 (ultraviolet/infrared lamps, etc.). Not a medical device per Note to 90.18 (normally requires a health professional). Notes in Ch. 90 redirect various light/electric items to Ch. 85 (e.g., 85.13, 85.36, 85.37). If seen as a composite (lamp + optics), essential character is its electrical light-emitting function (GRI 3(b)).
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<b>90</b>	Alternative if treated as an “optical appliance”: 90.13 covers lasers and other optical appliances/instruments not specified elsewhere in Ch. 90. However, Ch. 90 excludes many electric light devices to Ch. 85 (e.g., 85.13, 85.36, 85.37), and 90.18 applies to medical devices typically used by health professionals (not the case here). 90.19 targets massage/mechano-therapy, ozone/oxygen/aerosol therapy—distinct from light appliances. By GRI 3(a), Ch. 85 is more appropriate than this residual optical basket.
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### Phase 2

## TARIFF CLASSIFICATION RULING

#### I. Applicable regulatory framework

- General Rules of Interpretation (GRI) • GRI 1: “The titles of Sections, Chapters or Sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes...”

- GRI 3(a): “The heading which provides the most specific description shall be preferred to headings providing a more general description...”
- GRI 3(b): “...mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale... shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”
- GRI 6: “For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings... on the understanding that only subheadings at the same level are comparable.”

- Relevant legal notes and NESAs (Chapters 85 and 90) • Chapter 90, Note 1(h): excludes, among others, “portable electric lamps of heading 85.13” and “headlamps or ‘sealed beam’ units of heading 85.39” (remission to Ch. 85).
- NESAs Ch. 90, Heading 90.18: “Heading 90.18 covers instruments and appliances... essentially characterized by the fact that their normal use requires... the intervention of a health professional...”
- Text of Heading 90.13: “Lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter” (subheadings 9013.10, 9013.20 and 9013.80).
- Heading 90.19 (comparative reference): “Mechano-therapy appliances; massage apparatus; ... and other respiratory therapy apparatus.”
- Heading 85.16 (scope): “Electric instantaneous or storage water heaters...; other electrothermic appliances of a kind used for domestic purposes...”
- Heading 85.39 (electric lamps and tubes).
- Heading 85.13 (definition of portable apparatus, National Note): “Portable apparatus is understood to be that designed... to be easily carried by hand and whose weight is equal to or less than 15 kg.”
- Heading 85.43 (residual in Ch. 85): “Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this Chapter,” including subheading 8543.70 “Other machines and apparatus.”

## II. Legal-technical analysis

- Description of the good analyzed • Cosmetic/esthetic home-use appliance, not registered as a medical device and not intended for the treatment of diseases; equipped with a halogen source and an optical assembly that emits “supposedly therapeutic” polarized light.
- Applicable Chapter • Under GRI 1, refer to heading texts and Notes. The good integrates an “optical assembly” whose main function is to emit and direct

polarized light onto the skin. This function is essentially based on optical properties (emission + optical treatment/polarization), making Chapter 90 (optical instruments and appliances) relevant, and it is not a mere general-illumination lamp (exclusions in Note 1(h) of Ch. 90 remit portable lamps and headlamps to 85.13 and 85.39, respectively).

- Applicable heading • Within Chapter 90, Heading 90.13 covers “other optical appliances and instruments, not specified or included elsewhere.” The appliance is not a laser (excludes 9013.20) nor a sight/periscope/viewfinder (excludes 9013.10). By GRI 3(a), the description “optical appliances and instruments, not specified...” is more specific than the residual electrical headings of Ch. 85 for an appliance whose main function derives from its optical system.
- Subheading • Applying GRI 6, among 9013.10 (sights/periscopes), 9013.20 (lasers), and 9013.80 (“Other devices, appliances and instruments”), 9013.80 applies, as it is neither a laser nor a technical sighting/vision system.

### III. Exclusion of alternative headings or chapters (Chapters 85 and 90)

- 90.18 (medical instruments and appliances; e.g., “actinotherapy apparatus” under 9018.90 at the subheading/national level) • The Ch. 90 NESA clarifies that 90.18 covers apparatus whose normal use requires the intervention of a health professional, due to their medical nature (diagnosis, prevention or treatment of diseases) and construction characteristics (asepsis, finishes, etc.). The product at issue is expressly “not registered as a medical device and not intended for the treatment of diseases” and is marketed for domestic/esthetic use; therefore, it does not fall under 90.18 notwithstanding “actinotherapy apparatus” at that heading at national fraction level (9018.90.20). Accordingly, 90.18 is excluded by GRI 1.
- 90.19 (mechano-therapy, massage, respiratory therapy) • The appliance does not perform massage, vibration or mechano-therapy nor respiratory therapy functions, so 90.19 is excluded for lack of objective conformity with its text.
- 85.39 (electric lamps and tubes) • 85.39 classifies light sources (lamps/tubes) as such, not complete apparatus integrating optics for a specific function other than general illumination. The good is not the standalone halogen bulb, but equipment with an optical assembly and a specific functional application; 85.39 is excluded by GRI 1.
- 85.16 (electrothermic domestic appliances) • Although a halogen lamp generates heat, the essential character of the good is not “heating” but emitting polarized light

through optical elements. By GRI 3(b), the optical system confers the essential character; therefore, 85.16 does not apply.

- 85.13 (portable electric lamps) • Even if the equipment were transportable, the National Note to 85.13 defines “portable apparatus” by design and weight, but the good here is not a lamp intended for general portable illumination of 85.13; rather, it is an optical apparatus with a specific purpose. Moreover, Note 1(h) of Ch. 90 excludes to 85.13 only “portable electric lamps” as such, not complete optical apparatus with their own function not being general illumination. 85.13 is excluded for lack of conformity with the text and by GRI 3(b) (optical essential character).
- 85.43.70 (residual electrical) • 85.43 is residual within Ch. 85: “Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this Chapter,” with subheading 8543.70 “Other machines and apparatus.” Since the good specifically fits 90.13 as an “optical appliance” in Ch. 90, 85.43.70 is excluded by GRI 1 and, where applicable, GRI 3(a) (the specific optical description of 90.13 prevails over the residual electrical heading 85.43).

IV. Documentary requirements To support classification at the time of customs clearance, the importer must provide:

- Technical data sheet and user manual, detailing: • Functional diagram of the halogen source and the “optical assembly” (lenses/filters/polarizer) and how polarized light is obtained. • Intended purpose (cosmetic/esthetic) and exclusion of disease treatment. • Conditions of use (home/salon; whether a health professional is required).
- Photographs of the equipment and optical head, as well as optical path diagrams (to substantiate its character as an “optical apparatus”).
- Commercial brochures and/or official website supporting the primary optical function, not heating per se (relevant to GRI 3(b) essential character).
- Declaration of regulatory status (no sanitary registration as a medical device) consistent with the non-medical use described (pertinent to exclude 90.18).
- Power supply specification and whether it is “portable” within the meaning of 85.13 (weight ≤ 15 kg), to exclude 85.13 with certainty.

V. Conclusion Based on GRI 1, GRI 3(a) and GRI 6, and considering the text of 90.13, the good is classified as “other optical appliances and instruments” under 9013.80. Headings 90.18 (medical scope), 90.19 (massage/mechano-therapy), 85.39 (lamps as such), 85.16 (domestic electrothermic), 85.13 (portable lamps) and, particularly, 85.43.70 (residual

120 electrical) are excluded, as they are less specific than 90.13 with respect to the main  
121 optical character of the apparatus, pursuant to GRI 3(a).

122 Classification table (primary determination)

- 123 • Chapter: 90
- 124 • Heading: 90.13
- 125 • Subheading (HS-6 LEVEL): 90.13.80
- 126 • Fraction (8 digits MX): N/A in this ruling (scope requested: up to subheading)
- 127 • NICO (10 digits MX): N/A

128 Conditional determination

- 129 • Option A (if medical therapeutic purpose and normal use with health professional  
130 intervention are substantiated, or regulatory recognition as an actinotherapy  
131 medical device): • Chapter 90; Heading 90.18; Subheading 90.18.90 • Fraction and  
132 NICO: to be determined with regulatory and technical documentation (reference  
133 that “actinotherapy apparatus” are listed at the fraction level in 9018.90.20).
- 134 • Option B (if it is proven to lack an optical system conferring essential character and  
135 its function is predominantly domestic electrothermic): • Chapter 85; Heading  
136 85.16; Subheading 85.16.79 (“Other” electrothermic appliances). • Fraction and  
137 NICO: to be determined.
- 138 • Option C (if, exceptionally, it does not fit specific headings of Ch. 90 nor 85.16 and is  
139 an electrical apparatus with its own function not specified elsewhere in Ch. 85): •  
140 Chapter 85; Heading 85.43; Subheading 85.43.70. • Fraction and NICO: to be  
141 determined.

142 MISSING CRITERIA:

- 143 • Optical plan/diagram substantiating light treatment (lens/filter/polarizer) and its  
144 primary optical function.
- 145 • Evidence of intended use: cosmetic/esthetic vs. medical therapeutic; confirmation  
146 that normal use does not involve healthcare personnel.
- 147 • Regulatory status (whether there is registration as a medical device in the country of  
148 origin/destination).
- 149 • Physical data: weight, power mode (battery/mains) to rule out 85.13 with certainty.

150       •     Complete technical sheet and photographs of the equipment in operation.

151     Important note on 8543.70 8543.70 is excluded because it is a residual subheading of

152     Chapter 85 (“Other machines and apparatus”) applicable only when there is no more

153     specific classification in that Chapter. In this case, the apparatus specifically fits in

154     Chapter 90 as an “optical apparatus” (90.13), in accordance with GRI 1 and the priority of

155     the more specific heading (GRI 3(a)); therefore, it is not appropriate to move it to a residual

156     electrical heading in Ch. 85.