SUPREME COURT OF THE UNITED STATES

No. 99–1434

UNITED STATES, PETITIONER *v.*
MEAD CORPORATION

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

[June 18, 2001]

JUSTICE SOUTER delivered the opinion of the Court.

The question is whether a tariff classification ruling by the United States Customs Service deserves judicial deference. The Federal Circuit rejected Customs's invocation of *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837 (1984), in support of such a ruling, to which it gave no deference. We agree that a tariff classification has no claim to judicial deference under *Chevron,* there being no indication that Congress intended such a ruling to carry the force of law, but we hold that under *Skidmore* v. *Swift & Co.,* 323 U. S. 134 (1944), the ruling is eligible to claim respect according to its persuasiveness.

I

A

Imports are taxed under the Harmonized Tariff Schedule of the United States (HTSUS), 19 U. S. C. §1202. Title 19 U. S. C. §1500(b) provides that Customs "shall, under rules and regulations prescribed by the Secretary [of the Treasury] . . . fix the final classification and rate of duty applicable to . . . merchandise" under the HTSUS. Section 1502(a) provides that

> "[t]he Secretary of the Treasury shall establish and promulgate such rules and regulations not inconsistent with the law (including regulations establishing procedures for the issuance of binding rulings prior to the entry of the merchandise concerned), and may disseminate such information as may be necessary to secure a just, impartial, and uniform appraisement of imported merchandise and the classification and assessment of duties thereon at the various ports of entry."[1]

See also §1624 (general delegation to Secretary to issue rules and regulations for the admission of goods).

The Secretary provides for tariff rulings before the entry of goods by regulations authorizing "ruling letters" setting tariff classifications for particular imports. 19 CFR §177.8 (2000). A ruling letter

> "represents the official position of the Customs Service with respect to the particular transaction or issue described therein and is binding on all Customs Service personnel in accordance with the provisions of this section until modified or revoked. In the absence of a change of practice or other modification or revocation which affects the principle of the ruling set forth in the ruling letter, that principle may be cited as authority in the disposition of transactions involving the same circumstances." §177.9(a).

After the transaction that gives it birth, a ruling letter is to "be applied only with respect to transactions involving articles identical to the sample submitted with the ruling request or to articles whose description is identical to the

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[1] The statutory term "ruling" is defined by regulation as "a written statement . . . that interprets and applies the provisions of the Customs and related laws to a specific set of facts." 19 CFR §177.1(d)(1) (2000).

description set forth in the ruling letter." §177.9(b)(2). As a general matter, such a letter is "subject to modification or revocation without notice to any person, except the person to whom the letter was addressed," §177.9(c), and the regulations consequently provide that "no other person should rely on the ruling letter or assume that the principles of that ruling will be applied in connection with any transaction other than the one described in the letter," *ibid.* Since ruling letters respond to transactions of the moment, they are not subject to notice and comment before being issued, may be published but need only be made "available for public inspection," 19 U. S. C. §1625(a), and, at the time this action arose, could be modified without notice and comment under most circumstances, 19 CFR §177.10(c) (2000).[2] A broader notice-and-comment requirement for modification of prior rulings was added by statute in 1993, Pub. L. 103–182 §623, 107 Stat. 2186, codified at 19 U. S. C. §1625(c), and took effect after this case arose.[3]

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[2] The opinion of the Federal Circuit in this case noted that §177.10(c) provides some notice-and-comment procedures for rulings that have the "'effect of changing a practice.'" 185 F. 3d 1304, 1307, n. 1 (1999). The appeals court noted that this case does not involve such a ruling, and specifically excluded such rulings from the reach of its holding. *Ibid.*

[3] As amended by legislation effective after Customs modified its classification ruling in this case, 19 U. S. C. §1625(c) provides that a ruling or decision that would "modify . . . or revoke a prior interpretive ruling or decision which has been in effect for at least 60 days" or would "have the effect of modifying the treatment previously accorded by the Customs Service to substantially identical transactions" shall be "published in the Customs Bulletin. The Secretary shall give interested parties an opportunity to submit, during not less than the 30-day period after the date of such publication, comments on the correctness of the proposed ruling or decision. After consideration of any comments received, the Secretary shall publish a final ruling or decision in the Customs Bulletin within 30 days after the closing of the comment period. The final ruling or decision shall become effective 60 days after the date of its publication."

Any of the 46[4] port-of-entry[5] Customs offices may issue ruling letters, and so may the Customs Headquarters Office, in providing "[a]dvice or guidance as to the interpretation or proper application of the Customs and related laws with respect to a specific Customs transaction [which] may be requested by Customs Service field offices . . . at any time, whether the transaction is prospective, current, or completed," 19 CFR §177.11(a) (2000). Most ruling letters contain little or no reasoning, but simply describe goods and state the appropriate category and tariff. A few letters, like the Headquarters ruling at issue here, set out a rationale in some detail.

B

Respondent, the Mead Corporation, imports "day planners," three-ring binders with pages having room for notes of daily schedules and phone numbers and addresses, together with a calendar and suchlike. The tariff schedule on point falls under the HTSUS heading for "[r]egisters, account books, notebooks, order books, receipt books, letter pads, memorandum pads, diaries and similar articles," HTSUS subheading 4820.10, which comprises two subcategories. Items in the first, "[d]iaries, notebooks and address books, bound; memorandum pads, letter pads and similar articles," were subject to a tariff of 4.0% at the time in controversy. 185 F. 3d 1304, 1305 (CA Fed. 1999) (citing subheading 4820.10.20); see also App. to Pet. for Cert. 46a. Objects in the second, covering "[o]ther" items, were free of duty. HTSUS subheading 4820.10.40; see also App. to Pet. for Cert. 46a.

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[4] Brief for Customs and International Trade Bar Association as *Amicus Curiae* 5 (CITBA Brief).

[5] *I.e.,* "a Customs location having a full range of cargo processing functions, including inspections, entry, collections, and verification." 19 CFR §101.1 (2000).

Between 1989 and 1993, Customs repeatedly treated day planners under the "other" HTSUS subheading. In January 1993, however, Customs changed its position, and issued a Headquarters ruling letter classifying Mead's day planners as "Diaries . . ., bound" subject to tariff under subheading 4820.10.20. That letter was short on explanation, App. to Brief in Opposition 4a–6a, but after Mead's protest, Customs Headquarters issued a new letter, carefully reasoned but never published, reaching the same conclusion, App. to Pet. for Cert. 28a–47a. This letter considered two definitions of "diary" from the Oxford English Dictionary, the first covering a daily journal of the past day's events, the second a book including "'printed dates for daily memoranda and jottings; also . . . calendars . . . .'" *Id.,* at 33a–34a (quoting Oxford English Dictionary 321 (Compact ed. 1982)). Customs concluded that "diary" was not confined to the first, in part because the broader definition reflects commercial usage and hence the "commercial identity of these items in the marketplace." App. to Pet. for Cert. 34a. As for the definition of "bound," Customs concluded that HTSUS was not referring to "bookbinding," but to a less exact sort of fastening described in the Harmonized Commodity Description and Coding System Explanatory Notes to Heading 4820, which spoke of binding by "'reinforcements or fittings of metal, plastics, etc.'" *Id.,* at 45a.

Customs rejected Mead's further protest of the second Headquarters ruling letter, and Mead filed suit in the Court of International Trade (CIT). The CIT granted the Government's motion for summary judgment, adopting Customs's reasoning without saying anything about deference. 17 F. Supp. 2d 1004 (1998).

Mead then went to the United States Court of Appeals for the Federal Circuit. While the case was pending there this Court decided *United States* v. *Haggar Apparel Co.,* 526 U. S. 380 (1999), holding that Customs regulations

receive the deference described in *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U. S. 837 (1984). The appeals court requested briefing on the impact of *Haggar*, and the Government argued that classification rulings, like Customs regulations, deserve *Chevron* deference.

The Federal Circuit, however, reversed the CIT and held that Customs classification rulings should not get *Chevron* deference, owing to differences from the regulations at issue in *Haggar*. Rulings are not preceded by notice and comment as under the Administrative Procedure Act (APA), 5 U. S. C. §553, they "do not carry the force of law and are not, like regulations, intended to clarify the rights and obligations of importers beyond the specific case under review." 185 F. 3d, at 1307. The appeals court thought classification rulings had a weaker *Chevron* claim even than Internal Revenue Service interpretive rulings, to which that court gives no deference; unlike rulings by the IRS, Customs rulings issue from many locations and need not be published. 185 F. 3d, at 1307–1308.

The Court of Appeals accordingly gave no deference at all to the ruling classifying the Mead day planners and rejected the agency's reasoning as to both "diary" and "bound." It thought that planners were not diaries because they had no space for "relatively extensive notations about events, observations, feelings, or thoughts" in the past. *Id.,* at 1310. And it concluded that diaries "bound" in subheading 4810.10.20 presupposed "unbound" diaries, such that treating ring-fastened diaries as "bound" would leave the "unbound diary" an empty category. *Id.,* at 1311.

We granted certiorari, 530 U. S. 1202 (2000), in order to consider the limits of *Chevron* deference owed to administrative practice in applying a statute. We hold that administrative implementation of a particular statutory provision qualifies for *Chevron* deference when it appears

that Congress delegated authority to the agency generally to make rules carrying the force of law, and that the agency interpretation claiming deference was promulgated in the exercise of that authority. Delegation of such authority may be shown in a variety of ways, as by an agency's power to engage in adjudication or notice-and-comment rulemaking, or by some other indication of a comparable congressional intent. The Customs ruling at issue here fails to qualify, although the possibility that it deserves some deference under *Skidmore* leads us to vacate and remand.

II

A

When Congress has "explicitly left a gap for an agency to fill, there is an express delegation of authority to the agency to elucidate a specific provision of the statute by regulation," *Chevron*, 467 U. S., at 843–844, and any ensuing regulation is binding in the courts unless procedurally defective, arbitrary or capricious in substance, or manifestly contrary to the statute.[6] See *id.*, at 844; *United States* v. *Morton,* 467 U. S. 822, 834 (1984); APA, 5 U. S. C. §§706(2)(A), (D). But whether or not they enjoy any express delegation of authority on a particular question, agencies charged with applying a statute necessarily make all sorts of interpretive choices, and while not all of those choices bind judges to follow them, they certainly may influence courts facing questions the agencies have already answered. "[T]he well-reasoned views of the agencies implementing a statute 'constitute a body of experi-

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[6] Assuming in each case, of course, that the agency's exercise of authority is constitutional, see 5 U. S. C. §706(2)(B), and does not exceed its jurisdiction, see §706(2)(C).

ence and informed judgment to which courts and litigants may properly resort for guidance,'" *Bragdon* v. *Abbott,* 524 U. S. 624, 642 (1998) (quoting *Skidmore,* 323 U. S., at 139–140), and "[w]e have long recognized that considerable weight should be accorded to an executive department's construction of a statutory scheme it is entrusted to administer . . . ." *Chevron, supra,* at 844 (footnote omitted); see also *Ford Motor Credit Co.* v. *Milhollin,* 444 U. S. 555, 565 (1980); *Zenith Radio Corp.* v. *United States,* 437 U. S. 443, 450 (1978). The fair measure of deference to an agency administering its own statute has been understood to vary with circumstances, and courts have looked to the degree of the agency's care,[7] its consistency,[8] formality,[9] and relative expertness,[10] and to the persuasiveness of the agency's position, see *Skidmore, supra,* at 139–140. The approach has produced a spectrum of judicial responses, from great respect at one end, see, *e.g., Aluminum Co. of America* v. *Central Lincoln Peoples' Util. Dist.,* 467 U. S. 380, 389–390 (1984) ("'substantial deference'" to administrative construction), to near indifference at the other, see, *e.g., Bowen* v. *Georgetown Univ. Hospital,* 488 U. S. 204, 212–213 (1988) (interpretation advanced for the first time

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[7] *See, e.g., General Elec. Co.* v. *Gilbert,* 429 U. S. 125, 142 (1976) (courts consider the "'thoroughness evident in [the agency's] consideration'" (quoting *Skidmore* v. *Swift & Co.,* 323 U. S. 134, 140 (1944))).

[8] See, *e.g., Good Samaritan Hospital* v. *Shalala,* 508 U. S. 402, 417 (1993) ("[T]he consistency of an agency's position is a factor in assessing the weight that position is due").

[9] See, *e.g., Reno* v. *Koray,* 515 U. S. 50, 61 (1995) (internal agency guideline that is not "subject to the rigors of the [APA], including public notice and comment," is entitled only to "some deference" (internal quotation marks omitted)).

[10] See, *e.g., Aluminum Co. of America v. Central Lincoln Peoples' Util. Dist.,* 467 U. S. 380, 390 (1984).

in a litigation brief). Justice Jackson summed things up in *Skidmore* v. *Swift & Co.:*

> "The weight [accorded to an administrative] judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." 323 U. S., at 140.

Since 1984, we have identified a category of interpretive choices distinguished by an additional reason for judicial deference. This Court in *Chevron* recognized that Congress not only engages in express delegation of specific interpretive authority, but that "[s]ometimes the legislative delegation to an agency on a particular question is implicit." 467 U. S., at 844. Congress, that is, may not have expressly delegated authority or responsibility to implement a particular provision or fill a particular gap. Yet it can still be apparent from the agency's generally conferred authority and other statutory circumstances that Congress would expect the agency to be able to speak with the force of law when it addresses ambiguity in the statute or fills a space in the enacted law, even one about which "Congress did not actually have an intent" as to a particular result. *Id.,* at 845. When circumstances implying such an expectation exist, a reviewing court has no business rejecting an agency's exercise of its generally conferred authority to resolve a particular statutory ambiguity simply because the agency's chosen resolution seems unwise, see *id.,* at 845–846, but is obliged to accept the agency's position if Congress has not previously spoken to the point at issue and the agency's interpretation is reasonable, see *id.,* at 842–845; cf. 5 U. S. C. §706(2) (a reviewing court shall set aside agency action, findings, and conclusions found to be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law").

We have recognized a very good indicator of delegation meriting *Chevron* treatment in express congressional authorizations to engage in the process of rulemaking or adjudication that produces regulations or rulings for which deference is claimed. See, *e.g., EEOC* v. *Arabian American Oil Co.,* 499 U. S. 244, 257 (1991) (no *Chevron* deference to agency guideline where congressional delegation did not include the power to "promulgate rules or regulations'" (quoting *General Elec. Co.* v. *Gilbert,* 429 U. S. 125, 141) (1976)); see also *Christensen* v. *Harris County,* 529 U. S. 576, 596–597 (2000) (BREYER, J., dissenting) (where it is in doubt that Congress actually intended to delegate particular interpretive authority to an agency, *Chevron* is "inapplicable"). It is fair to assume generally that Congress contemplates administrative action with the effect of law when it provides for a relatively formal administrative procedure tending to foster the fairness and deliberation that should underlie a pronouncement of such force.[11] Cf. *Smiley* v. *Citibank (South Dakota), N. A.,* 517 U. S. 735, 741 (1996) (APA notice and comment "designed to assure due deliberation"). Thus, the overwhelming number of our cases applying *Chevron* deference have reviewed the fruits of notice-and-comment rulemaking or formal adjudication.[12] That said, and as significant

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[11] See Merrill & Hickman, *Chevron*'s Domain, 89 Geo. L. J. 833, 872 (2001) ("[I]f *Chevron* rests on a presumption about congressional intent, then *Chevron* should apply only where Congress would want *Chevron* to apply. In delineating the types of delegations of agency authority that trigger C*hevron* deference, it is therefore important to determine whether a plausible case can be made that Congress would want such a delegation to mean that agencies enjoy primary interpretational authority").

[12] For rulemaking cases, see, *e.g., Shalala* v. *Illinois Council on Long Term Care, Inc.,* 529 U. S. 1, 20–21 (2000); *United States* v. *Haggar Apparel Co.*, 526 U. S. 380 (1999); *AT&T Corp.* v. *Iowa Utilities Bd.*, 525 U. S. 366 (1999); *Atlantic Mut. Ins. Co.* v. *Commissioner,* 523 U. S.

as notice-and-comment is in pointing to *Chevron* authority, the want of that procedure here does not decide the case, for we have sometimes found reasons for *Chevron* deference even when no such administrative formality was required and none was afforded, see, *e.g., NationsBank of N. C., N. A.* v. *Variable Annuity Life Ins. Co.,* 513 U. S. 251, 256–257, 263 (1995).[13] The fact that the tariff classification here was not a product of such formal process does not alone, therefore, bar the application of *Chevron*.

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382 (1998); *Regions Hospital* v. *Shalala,* 522 U. S. 448 (1998); *United States* v. *O'Hagan,* 521 U. S. 642 (1997); *Smiley* v. *Citibank (South Dakota), N. A.,* 517 U. S. 735 (1996); *Babbitt* v. *Sweet Home Chapter, Communities for Great Ore.,* 515 U. S. 687 (1995); *ICC* v. *Transcon Lines,* 513 U. S. 138 (1995); *PUD No. 1 of Jefferson Cty.* v. *Washington Dept. of Ecology,* 511 U. S. 700 (1994); *Good Samaritan Hospital* v. *Shalala,* 508 U. S. 402 (1993); *American Hospital Assn.* v. *NLRB,* 499 U. S. 606 (1991); *Sullivan* v. *Everhart,* 494 U. S. 83 (1990); *Sullivan* v. *Zebley,* 493 U. S. 521 (1990); *Massachusetts* v. *Morash,* 490 U. S. 107 (1989); *K mart Corp.* v. *Cartier, Inc.,* 486 U. S. 281 (1988); *Atkins* v. *Rivera,* 477 U. S. 154 (1986); *United States* v. *Fulton,* 475 U. S. 657 (1986); *United States* v. *Riverside Bayview Homes, Inc.,* 474 U. S. 121 (1985).

For adjudication cases, see, *e.g., INS* v. *Aguirre-Aguirre,* 526 U. S. 415, 423–425 (1999); *Federal Employees* v. *Department of Interior,* 526 U. S. 86, 98–99 (1999); *Holly Farms Corp.* v. *NLRB,* 517 U. S. 392 (1996); *ABF Freight System, Inc.* v. *NLRB,* 510 U. S. 317, 324–325 (1994); *National Railroad Passenger Corporation* v. *Boston & Maine Corp.,* 503 U. S. 407, 417–418 (1992); *Norfolk & Western R. Co.* v. *Train Dispatchers,* 499 U. S. 117, 128 (1991); *Fort Stewart Schools* v. *FLRA,* 495 U. S. 641, 644–645 (1990); *Department of Treasury, IRS* v. *FLRA,* 494 U. S. 922 (1990).

[13] In *NationsBank of N. C., N. A.* v. *Variable Annuity Life Ins. Co.,* 513 U. S. 251, 256–257 (1995), we quoted longstanding precedent concluding that "[t]he Comptroller of the Currency is charged with the enforcement of banking laws to an extent that warrants the invocation of [the rule of deference] with respect to his deliberative conclusions as to the meaning of these laws" (internal quotation marks omitted). See also 1 M. Malloy, Banking Law and Regulation §1.3.1, p. 1.41 (1996) (stating that the Comptroller is given "personal authority" under the National Bank Act).

There are, nonetheless, ample reasons to deny *Chevron* deference here. The authorization for classification rulings, and Customs's practice in making them, present a case far removed not only from notice-and-comment process, but from any other circumstances reasonably suggesting that Congress ever thought of classification rulings as deserving the deference claimed for them here.

B

No matter which angle we choose for viewing the Customs ruling letter in this case, it fails to qualify under *Chevron*. On the face of the statute, to begin with, the terms of the congressional delegation give no indication that Congress meant to delegate authority to Customs to issue classification rulings with the force of law. We are not, of course, here making any global statement about Customs's authority, for it is true that the general rulemaking power conferred on Customs, see 19 U. S. C. §1624, authorizes some regulation with the force of law, or "legal norms," as we put it in *Haggar*, 526 U. S., at 391.[14] It is true as well that Congress had classification rulings in mind when it explicitly authorized, in a parenthetical, the issuance of "regulations establishing procedures for the issuance of binding rulings prior to the entry of the merchandise concerned," 19 U. S. C. §1502(a).[15] The reference to binding classifications does not, however,

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[14] Cf. *Adams Fruit Co.* v. *Barrett*, 494 U. S. 638, 649–650 (1990) (although Congress required the Secretary of Labor to promulgate standards implementing certain provisions of the Migrant and Seasonal Agricultural Worker Protection Act, and "agency determinations within the scope of delegated authority are entitled to deference," the Secretary's interpretation of the Act's enforcement provisions is not entitled to *Chevron* deference because "[n]o such delegation regarding [those] provisions is evident in the statute").

[15] The ruling in question here, however, does not fall within that category.

bespeak the legislative type of activity that would naturally bind more than the parties to the ruling, once the goods classified are admitted into this country. And though the statute's direction to disseminate "information" necessary to "secure" uniformity, 19 U. S. C. §1502(a), seems to assume that a ruling may be precedent in later transactions, precedential value alone does not add up to *Chevron* entitlement; interpretive rules may sometimes function as precedents, see Strauss, The Rulemaking Continuum, 41 Duke L. J. 1463, 1472–1473 (1992), and they enjoy no *Chevron* status as a class. In any event, any precedential claim of a classification ruling is counterbalanced by the provision for independent review of Customs classifications by the CIT, see 28 U. S. C. §§2638–2640; the scheme for CIT review includes a provision that treats classification rulings on par with the Secretary's rulings on "valuation, rate of duty, marking, restricted merchandise, entry requirements, drawbacks, vessel repairs, or similar matters," §1581(h); see §2639(b). It is hard to imagine a congressional understanding more at odds with the *Chevron* regime.[16]

It is difficult, in fact, to see in the agency practice itself any indication that Customs ever set out with a lawmaking pretense in mind when it undertook to make classifications like these. Customs does not generally engage in notice-and-comment practice when issuing them, and their treatment by the agency makes it clear that a letter's binding character as a ruling stops short of third parties; Customs has regarded a classification as conclusive only as between itself and the importer to whom it was issued,

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[16] Although Customs's decision "is presumed to be correct" on review, 28 U. S. C. §2639(a)(1), the CIT "may consider any new ground" even if not raised below, §2638, and "shall make its determinations upon the basis of the record made before the court," rather than that developed by Customs, §2640(a); see generally *Haggar Apparel,* 526 U. S., at 391.

19 CFR §177.9(c) (2000), and even then only until Customs has given advance notice of intended change, §§177.9(a), (c). Other importers are in fact warned against assuming any right of detrimental reliance. §177.9(c).

Indeed, to claim that classifications have legal force is to ignore the reality that 46 different Customs offices issue 10,000 to 15,000 of them each year, see Brief for Respondent 5; CITBA Brief 6 (citing Treasury Advisory Committee on the Commercial Operations of the United States Customs Service, Report of the COAC Subcommittee on OR&R, Exhibits 1, 3 (Jan. 26, 2000) (reprinted in App. to CITBA Brief 20a–21a)). Any suggestion that rulings intended to have the force of law are being churned out at a rate of 10,000 a year at an agency's 46 scattered offices is simply self-refuting. Although the circumstances are less startling here, with a Headquarters letter in issue, none of the relevant statutes recognizes this category of rulings as separate or different from others; there is thus no indication that a more potent delegation might have been understood as going to Headquarters even when Headquarters provides developed reasoning, as it did in this instance.

Nor do the amendments to the statute made effective after this case arose disturb our conclusion. The new law requires Customs to provide notice-and-comment procedures only when modifying or revoking a prior classification ruling or modifying the treatment accorded to substantially identical transactions, 19 U. S. C. §1625(c); and under its regulations, Customs sees itself obliged to provide notice-and-comment procedures only when "changing a practice" so as to produce a tariff increase, or in the imposition of a restriction or prohibition, or when Customs Headquarters determines that "the matter is of sufficient importance to involve the interests of domestic industry," 19 CFR §§177.10(c)(1)(2) (2000). The statutory changes reveal no new congressional objective of treating classification decisions generally as rulemaking with force of law,

nor do they suggest any intent to create a *Chevron* patchwork of classification rulings, some with force of law, some without.

In sum, classification rulings are best treated like "interpretations contained in policy statements, agency manuals, and enforcement guidelines." *Christensen,* 529 U. S., at 587. They are beyond the *Chevron* pale.

C

To agree with the Court of Appeals that Customs ruling letters do not fall within *Chevron* is not, however, to place them outside the pale of any deference whatever. *Chevron* did nothing to eliminate *Skidmore*'s holding that an agency's interpretation may merit some deference whatever its form, given the "specialized experience and broader investigations and information" available to the agency, 323 U. S., at 139, and given the value of uniformity in its administrative and judicial understandings of what a national law requires, *id.,* at 140. See generally *Metropolitan Stevedore Co.* v. *Rambo,* 521 U. S., 121, 136 (1997) (reasonable agency interpretations carry "at least some added persuasive force" where *Chevron* is inapplicable); *Reno* v. *Koray,* 515 U. S. 50, 61 (1995) (according "some deference" to an interpretive rule that "do[es] not require notice and comment"); *Martin* v. *Occupational Safety and Health Review Comm'n,* 499 U. S. 144, 157 (1991) ("some weight" is due to informal interpretations though not "the same deference as norms that derive from the exercise of . . . delegated lawmaking powers").

There is room at least to raise a *Skidmore* claim here, where the regulatory scheme is highly detailed, and Customs can bring the benefit of specialized experience to bear on the subtle questions in this case: whether the daily planner with room for brief daily entries falls under "diaries," when diaries are grouped with "notebooks and address books, bound; memorandum pads, letter pads and

similar articles," HTSUS subheading 4820.10.20; and whether a planner with a ring binding should qualify as "bound," when a binding may be typified by a book, but also may have "reinforcements or fittings of metal, plastics, etc.," Harmonized Commodity Description and Coding System Explanatory Notes to Heading 4820, p. 687 (cited in Customs Headquarters letter, App. to Pet. for Cert. 45a. A classification ruling in this situation may therefore at least seek a respect proportional to its "power to persuade," *Skidmore, supra,* at 140; see also *Christensen,* 529 U. S., at 587; *id.,* at 595 (STEVENS, J., dissenting); *id.,* at 596–597 (BREYER, J., dissenting). Such a ruling may surely claim the merit of its writer's thoroughness, logic and expertness, its fit with prior interpretations, and any other sources of weight.

D

Underlying the position we take here, like the position expressed by JUSTICE SCALIA in dissent, is a choice about the best way to deal with an inescapable feature of the body of congressional legislation authorizing administrative action. That feature is the great variety of ways in which the laws invest the Government's administrative arms with discretion, and with procedures for exercising it, in giving meaning to Acts of Congress. Implementation of a statute may occur in formal adjudication or the choice to defend against judicial challenge; it may occur in a central board or office or in dozens of enforcement agencies dotted across the country; its institutional lawmaking may be confined to the resolution of minute detail or extend to legislative rulemaking on matters intentionally left by Congress to be worked out at the agency level.

Although we all accept the position that the Judiciary should defer to at least some of this multifarious administrative action, we have to decide how to take account of the great range of its variety. If the primary objective is

to simplify the judicial process of giving or withholding deference, then the diversity of statutes authorizing discretionary administrative action must be declared irrelevant or minimized. If, on the other hand, it is simply implausible that Congress intended such a broad range of statutory authority to produce only two varieties of administrative action, demanding either *Chevron* deference or none at all, then the breadth of the spectrum of possible agency action must be taken into account. JUSTICE SCALIA's first priority over the years has been to limit and simplify. The Court's choice has been to tailor deference to variety.[17] This acceptance of the range of statutory variation has led the Court to recognize more than one variety of judicial deference, just as the Court has recognized a variety of indicators that Congress would expect *Chevron* deference.[18]

Our respective choices are repeated today. JUSTICE SCALIA would pose the question of deference as an either-

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[17] Compare *Christensen* v. *Harris County,* 529 U. S. 576, 587 (2000) ("Interpretations such as those in opinion letters– like interpretations contained in policy statements, agency manuals, and enforcement guidelines, all of which lack the force of law– do not warrant *Chevron*-style deference"), and *EEOC* v. *Arabian American Oil Co.,* 499 U. S. 244, 257–258 (1991) (applying *Skidmore* analysis where Congress did not confer upon the agency authority to promulgate rules or regulations), with *Christensen, supra,* at 589–591 (2000) (SCALIA, J., concurring in part and concurring in judgment) (urging *Chevron* treatment); *EEOC* v. *Arabian American Oil Co., supra,* at 259–260 (SCALIA, J., concurring in part and concurring in judgment) (urging *Chevron* treatment); see also *INS* v. *Cardoza-Fonseca,* 480 U. S. 421, 453–455 (1987) (SCALIA, J., concurring in judgment) (urging broader application of *Chevron*).

[18] It is, of course, true that the limit of *Chevron* deference is not marked by a hard-edged rule. But *Chevron* itself is a good example showing when *Chevron* deference is warranted, while this is a good case showing when it is not. Judges in other, perhaps harder, cases will make reasoned choices between the two examples, the way courts have always done.

or choice. On his view that *Chevron* rendered *Skidmore* anachronistic, when courts owe any deference it is *Chevron* deference that they owe, *post,* at 9–10. Whether courts do owe deference in a given case turns, for him, on whether the agency action (if reasonable) is "authoritative," *post,* at 17. The character of the authoritative derives, in turn, not from breadth of delegation or the agency's procedure in implementing it, but is defined as the "official" position of an agency, *ibid.,* and may ultimately be a function of administrative persistence alone, *ibid.*

The Court, on the other hand, said nothing in *Chevron* to eliminate *Skidmore*'s recognition of various justifications for deference depending on statutory circumstances and agency action; *Chevron* was simply a case recognizing that even without express authority to fill a specific statutory gap, circumstances pointing to implicit congressional delegation present a particularly insistent call for deference. Indeed, in holding here that *Chevron* left *Skidmore* intact and applicable where statutory circumstances indicate no intent to delegate general authority to make rules with force of law, or where such authority was not invoked, we hold nothing more than we said last Term in response to the particular statutory circumstances in *Christensen*, to which JUSTICE SCALIA then took exception, see 529 U. S., at 589, just as he does again today.

We think, in sum, that JUSTICE SCALIA's efforts to simplify ultimately run afoul of Congress's indications that different statutes present different reasons for considering respect for the exercise of administrative authority or deference to it. Without being at odds with congressional intent much of the time, we believe that judicial responses to administrative action must continue to differentiate between *Chevron* and *Skidmore,* and that continued rec-

ognition of *Skidmore* is necessary for just the reasons Justice Jackson gave when that case was decided.[19]

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Since the *Skidmore* assessment called for here ought to be made in the first instance by the Court of Appeals for the Federal Circuit or the Court of International Trade, we go no further than to vacate the judgment and remand the case for further proceedings consistent with this opinion.

It is so ordered.

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[19] Surely Justice Jackson's practical criteria, along with *Chevron's* concern with congressional understanding, provide more reliable guideposts than conclusory references to the "authoritative" or "official." Even if those terms provided a true criterion, there would have to be something wrong with a standard that accorded the status of substantive law to every one of 10,000 "official" customs classifications rulings turned out each year from over 46 offices placed around the country at the Nation's entryways. JUSTICE SCALIA tries to avoid that result by limiting what is "authoritative" or "official" to a pronouncement that expresses the "judgment of central agency management, approved at the highest level," as distinct from the pronouncements of "underlings," *post,* at 22, n. 5. But that analysis would not entitle a Headquarters ruling to *Chevron* deference; the "highest level" at Customs is the source of the regulation at issue in *Haggar,* the Commissioner of Customs with the approval of the Secretary of the Treasury. 526 U. S., at 386. The Commissioner did not issue the Headquarters ruling. What JUSTICE SCALIA has in mind here is that because the Secretary approved the Government's position in its brief to this Court, *Chevron* deference is due. But if that is so, *Chevron* deference was not called for until sometime after the litigation began, when central management at the highest level decided to defend the ruling, and the deference is not to the classification ruling as such but to the brief. This explains why the Court has not accepted JUSTICE SCALIA's position.