

U.S. Customs Service

General Notices

USE OR REPLACEMENT OF CONTINUOUS BONDS THAT WERE DESTROYED IN NEW YORK

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public that importers will be afforded additional time to follow the procedures previously prescribed to ensure continuous bond coverage on future import transactions in the case of continuous bonds maintained by Customs in New York that were destroyed in the terrorist attack on September 11, 2001.

DATE: A copy of a current bond must be provided to Customs, or a new bond must be filed with Customs, on or before August 12, 2002.

FOR FURTHER INFORMATION CONTACT:

For questions regarding operational issues: The Entry and Drawback Management Branch, Office of Field Operations (202-927-0360).

For inquiries about specific bonds: The Customs Bond Unit, Elizabeth, New Jersey (201-443-0234). A party making a telephonic inquiry regarding a specific bond should be prepared to provide its importer name and identification number.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Customs laws and regulations require the posting of a surety bond to secure Customs transactions involving specific types of activities (for example, the importation and entry of merchandise, the custody of imported merchandise, the arrival and clearance of conveyances). A Customs bond may be approved by Customs for a particular activity involving one individual Customs transaction (for example, a single entry bond) or may be approved by Customs as a continuous bond for a particular activity involving multiple Customs transactions (for example, a continuous importation and entry bond). A single transaction bond normally is approved by Customs when presented in connection with the individual transaction to which it relates and remains in effect only for purposes of that one transaction. An application for a continu-

ous transaction bond normally is filed with, and approved by, Customs before all of the transactions to which it relates arise, and the approved bond is retained on file by Customs and remains in effect until terminated by the parties to the bond.

The terrorist attack on the World Trade Center in New York on September 11, 2001, resulted in the destruction of Customs bonds and other documents that were being stored at the Customs offices at 6 World Trade Center. The destroyed bonds and other documents included, but were not limited to, continuous bonds which were filed for approval at the New York Seaport (port code 1001) and at the New York Regional Port (port code 7200).

On May 13, 2002, Customs published in the Federal Register (67 FR 32082) a general notice setting forth procedures for importers to follow in order to ensure uninterrupted bond coverage and avoid the need to file an application for a new continuous bond. That notice provided that each party having a continuous bond of any type involving activity code 1 to 5 that has an effective date of September 11, 2001, or earlier and that was filed at either of the two ports referred to above and that was in effect on the date of publication of the notice must, within 30 days of the date of publication of the notice (that is, on or before June 12, 2002), provide Customs with a copy of that bond together with the Customs bond number and copies of any riders to the bond. The notice further stated that failure to provide a copy of the bond within the prescribed 30-day period would cause Customs to refuse to accept a reference to the bond to guarantee future transactions and that, if a copy of the bond could not be provided, the party must submit to Customs a new continuous bond application within the same 30-day period. For purposes of that notice, the term "party" referred to any individual or business association that prior to, or on or after, September 11, 2001, had engaged in activities secured by a continuous bond described above as having been destroyed on that date, either by virtue of being listed as a "Principal" on the bond or by virtue of being listed as a user in "Section III" on the bond. Finally, the May 13, 2002, notice stated that the copy of the continuous bond or the new continuous bond application should be sent to either of the following addresses:

U.S. Customs Service
Attention: Bond Desk
1210 Corbin Street
Elizabeth, New Jersey 07201

or

U.S. Customs Service
Attention: Bond Desk
Bldg. 77
JFK Airport
Jamaica, New York 11430

EXTENSION OF SUBMISSION PERIOD

Following publication of the May 13, 2002, notice, various trade associations advised Customs that additional time would be required for their members to comply with the procedures set forth in the notice. Moreover, Customs has, to date, received significantly fewer copies of bonds or new bond applications than it expected to receive. Customs therefore has determined that an additional 60 days should be allowed for submission of the prescribed bond information or a new bond application.

Accordingly, subject to the other terms and conditions of the May 13, 2002, notice as described above, Customs will continue to accept a copy of a destroyed bond or a new continuous bond application until August 12, 2002. Failure to provide a copy of a destroyed bond by that date will cause Customs to refuse to accept a reference to the bond to guarantee future transactions.

Dated: July 16, 2002.

JAYSON P. AHERN,
Assistant Commissioner,
Office of Field Operations.

[Published in the Federal Register, July 22, 2002 (67 FR 47888)]

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, July 17, 2002.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

SANDRA L. BELL,
(for Michael T. Schmitz, Assistant Commissioner,
Office of Regulations and Rulings.)

PROPOSED MODIFICATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO CLASSIFI-
CATION OF CHEESE SAUCE PREPARATIONS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed modification of ruling letter and revocation of treatment relating to the classification of cheese sauce preparations.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of cheese sauce preparations and any treatment previously accorded by the Customs Service to substantially identical transactions. Comments are invited on the correctness of the intended action.

DATE: Comments must be received on or before September 6, 2002.

ADDRESS: Written comments are to be addressed to the U.S. Customs Service, Office of Regulations & Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs Service, 799 9th Street, NW, Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at 202-572-8768.

FOR FURTHER INFORMATION CONTACT: Peter T. Lynch, General Classification Branch, 202-572-8778.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility.**" These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended, (19 U.S.C. §1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of cheese sauce preparations. Although in this notice Customs is specifically referring to one ruling, New York Ruling Letter (NY) G85242, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise the Customs Service during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States (HTSUS). Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise the Customs Service of substantially identical

transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or their agents for importations of merchandise subsequent to this notice.

In NY G85242, dated January 11, 2001, among other products, the classification of a product commonly referred to as cheese sauce preparations was determined to be in heading 0406, HTSUS, which provides for cheese and curd. This ruling letter is set forth in "Attachment A" to this document. Since the issuance of that ruling, Customs has had a chance to review the classification of this merchandise and has determined that the classification is in error. Customs now believes the merchandise is classified in heading 2103, HTSUS, which provides for sauces and preparations therefor.

Customs, pursuant to 19 U.S.C. 1625(c)(1), intends to modify NY G85242, and revoke any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed Headquarters Ruling Letter (HQ) 964846 (*see* "Attachment B" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: July 18, 2002.

MARVIN AMERNICK,
(for Myles B. Harmon, Acting Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
New York, NY, January 11, 2001.
CLA-2-4:RR:NC:2:228 G85242
Category: Classification
Tariff No. 0406.90.0890, 0406.90.1200,
0406.90.4100, 0406.90.4200, 0406.90.8200,
0406.90.8400, 0406.90.9000, 0406.90.9200,
0406.90.9500, 0406.90.9700, and 2103.90.9090

MR. JULIAN B. HERON
TUTTLE TAYLOR & HERON
1025 Thomas Jefferson Street, NW
Suite 407 West
Washington, DC 20007-5201

Re: The tariff classification of cheese sauce preparations from Australia and New Zealand.

DEAR MR. HERON:

In your letter dated December 12, 2000, on behalf of International Custom Products, Inc., DuBois, PA, you requested a tariff classification ruling.

Ingredients breakdowns, technical specifications, a description of the manufacturing process, and sample recipes showing how the products are used, were submitted with your letter. "Preparation 101" is a human food preparation which serves as the base for cheese sauces, soups, and dressings. Users of the product need only add water, color and flavoring if desired, and cook, to prepare a sauce or dressing. Preparation 101 is produced in three flavors (Sharp, Italian, and Swiss), and each flavor has seven possible ingredient formulations, identified in your letter as 1A to 1G. Ingredients common to each formula are cheese (over 60 percent), milk protein concentrate, whey, casein, xanthan gum, sodium citrate, lactic acid, salt, and water. Other ingredients, depending on the variety, are anhydrous milkfat, soybean oil, coconut oil, whey protein concentrate, and carboxymethylcellulose. Preparation 101 is said to have a fat content of from 32.5 to 37 percent, from 34 to 36 percent moisture, and from 20 to 28 percent protein. It will be imported in frozen condition, in bulk packaging weighing 25-kilograms or more.

The applicable subheading for Preparation 101, Sharp flavor, formulas 1A, 1B, and 1G, if from Cheddar cheese only, and if entered under quota, will be 0406.90.0890, HTS, which provides for cheese and curd, other cheese, Cheddar cheese, described in additional U.S. note 18 to this chapter and entered pursuant to its provisions * * * Other. The rate of duty will be 12 percent ad valorem. If entered outside the quota provision, this product will be classified in the residual subheading 0406.90.1200, HTS, which provides for other Cheddar cheese of this subheading. The rate of duty will be \$1.227 per kilogram. In addition, products classified in subheading 0406.90.1200, HTS, will be subject to additional duties based on their value, as described in subheadings 9904.05.59-9904.05.73, HTS.

The applicable subheading for Preparation 101, Sharp flavor, formulas 1A, 1B, and 1G, if from granular cheese only, and if entered under quota, will be 0406.90.8200, HTS, which provides for cheese and curd: * * * other cheese: * * * other cheeses and substitutes for cheese, including mixtures of the above: * * * other, including mixtures of the above (excluding goods containing mixtures of 0406.90.61 or 0406.90.63): * * * containing or processed from, American-type cheese (including Colby, washed curd and granular cheese, but not including Cheddar), described in additional U.S. note 19 to this chapter and entered pursuant to its provisions. The rate of duty will be 10 percent ad valorem. If entered outside the quota provision, this product will be classified in the residual subheading 0406.90.8400, HTS, which provides for other cheese of that subheading. The rate of duty will be \$1.055 per kilogram. In addition, products classified in subheading 0406.90.8400, HTS, will be subject to additional duties based on value, as described in subheadings 9904.05.74-9904.05.82, HTS.

The applicable subheading for Preparation 101, Sharp flavor, formulas 1A, 1B, and 1G, if from Cheshire cheese only, and if entered under quota, will be 0406.90.9500, HTS, which provides for cheese and curd: * * * other cheese: * * * other cheeses and substitutes for cheese, including mixtures of the above: * * * other, including mixtures of the above (excluding goods containing mixtures of 0406.90.61 or 0406.90.63): * * * other: * * * other: * * * containing cow's milk (except soft-ripened cow's milk cheese): * * * described in additional U.S. note 16 to this chapter and entered pursuant to its provisions. The rate of duty will be 10 percent ad valorem. If entered outside the quota provision, this product will be classified in the residual subheading 0406.90.9700, HTS, which provides for other cheese of that subheading. The rate of duty will be \$1.509 per kilogram. In addition, products classified in subheading 0406.90.9700, HTS, will be subject to additional duties based on value, as described in subheadings 9904.06.38-9904.06.49, HTS.

The applicable subheading for Preparation 101, Italian flavor, formulas 1A, 1B, and 1G, which will contain only Parmesan cheese or only cow's milk Romano cheese, if entered under quota, will be 0406.90.4100, HTS, which provides for cheese and curd, other cheese, Romano made from cow's milk, Reggiano, Parmesan, Provolone and Provoletti cheeses: * * * Other: * * * Made from cow's milk: * * * Described in additional U.S. note 21 to this chapter and entered pursuant to its provisions. The rate of duty will be 15 percent ad valorem. If entered outside the quota provision, this product will be classified in subheading 0406.90.4200, HTS, which provides for other Romano made from cow's milk, Reggiano, Parmesan, Provolone and Provoletti cheeses of this subheading. The rate of duty will be \$2.146 per kilogram. In addition, products classified in subheading 0406.90.4200, HTS, will be subject to additional duties based on their value, as described in subheadings 9904.05.95-9904.06.05, HTS.

The applicable subheading for Preparation 101, Swiss flavor, formulas 1A, 1B, and 1G, which will be made from Swiss cheese, if entered under quota, will be 0406.90.9000, HTS,

which provides for cheese and curd: * * * other cheese: * * * other cheeses and substitutes for cheese, including mixtures of the above (excluding mixtures of goods of subheadings 0406.90.61 or 0406.90.63): * * * containing or processed from Swiss, Emmentaler or Gruyere-process cheese: * * * described in additional U.S. note 22 to this chapter and entered pursuant to its provisions. The rate of duty will be 10 percent ad valorem. If entered outside the quota provision, this product will be classified in subheading 0406.90.9200, HTS, which provides for other Swiss, Emmentaler or Gruyere-process cheese of this subheading. The rate of duty will be \$1.386 per kilogram. In addition, products entered in subheading 0406.90.9200, HTS, will be subject to additional duties based on value, as described in subheadings 9904.06.19-9904.06.28, HTS.

The applicable subheading for Preparation 101, Sharp, Italian, and Swiss flavor, formulas 1C to 1F, will be 2103.90.9090, Harmonized Tariff Schedule of the United States (HTS), which provides for sauces and preparations therefor * * * other * * * other. The rate of duty will be 6.4 percent ad valorem.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Stanley Hopard at 212-637-7065.

ROBERT B. SWIERUPSKI,
Director,
National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR:CR:GC 964846ptl
Category: Classification
Tariff No. 2103.90.90

MR. JULIAN B. HERON
TUTTLE, TAYLOR & HERON
Suite 407 West
1025 Thomas Jefferson Street, NW
Washington, DC 20007-5201

Re: Various Cheese Sauce Preparations; Modification of NY G85242.

DEAR MR. HERON:

This is in response to your letter of February 8, 2001, on behalf of International Custom Products, Inc., in which you request review of the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of certain cheese sauce preparations, identified as "Preparation 101," which were contained in New York Ruling Letter (NY) G85242, dated January 11, 2001, which was issued to you. We regret the delay.

Facts:

According to information you supplied, "Preparation 101" is a human food preparation which serves as the base for cheese sauces, soups and dressings. The product is said to have been properly acidified and contains all of the necessary thickeners and emulsifiers needed for the production of cheese sauces and dressings. Users of the product need only add water, color and flavoring if desired, and cook, to prepare a sauce or dressing. Actual formulations of "Preparation 101" may change slightly due to customer specifications for texture, body and/or flavor profile.

"Preparation 101" has three flavor profiles, termed "Sharp Flavor," "Italian Flavor," and "Swiss Flavor." Each of the three flavors can have seven formulations, identified as Sharp Flavor 1-A through 1-G, Italian Flavor 1-A through 1-G, and Swiss Flavor 1-A

through 1-G. Ingredients common to each formula are cheese (over 60 percent), milk protein concentrate, whey, casein, xanthan gum, sodium citrate, lactic acid, salt, and water. Other ingredients, depending on the formulation, are anhydrous milkfat, soybean oil, coconut oil, whey protein concentrate, and carboxymethylcellulose. "Preparation 101" is said to have a fat content of from 32.5 to 37 percent, a moisture content of from 34 to 36 percent, and a protein content of from 20 to 28 percent. The products are packaged in 25 kg. (or larger) corrugated containers with approved polyethylene liners, and are shipped and stored frozen.

In NY G85242, product formulations of "Preparation 101" identified as Sharp, Italian and Swiss flavor, formulas 1C to 1F were classified in subheading 2103.90.9090, HTSUS, which provides for sauces and preparations therefor * * * other * * * other * * * other.

The remaining formulations (Sharp, Italian and Swiss flavors 1A, 1B and 1G) were classified as follows: "Preparation 101", Sharp flavor, 1A, 1B and 1G, if from Cheddar cheese only, and if under quota was classified in subheading 0406.90.0890, HTSUS, which provides for cheese and curd, other cheese, Cheddar cheese, described in additional U.S. note 18 to this chapter and entered pursuant to its provisions * * * other. "Preparation 101" Sharp flavor, formulas 1A, 1B and 1G, if from granular cheese only, and if entered under quota, was classified in subheading 0406.90.8200, HTSUS, which provides for cheese and curd: * * * other cheese: * * * other cheeses and substitutes for cheese, including mixtures of the above * * * containing or processed from American-type cheese (including Colby, washed curd and granular cheese, but not including Cheddar) * * *. "Preparation 101" Sharp flavor, formulas 1A, 1B and 1G, if from Cheshire cheese only, and if entered under quota, was classified in subheading 0406.90.9500, HTSUS, which provides for cheese and curd: * * * other cheese: * * * other cheeses and substitutes for cheese, including mixtures of the above * * *, other: * * * containing cow's milk. If entered outside quota, the product would be classified in the appropriate subheading.

"Preparation 101" Italian flavor, formulas 1A, 1B and 1G, which contain only Parmesan cheese or only cow's milk Romano cheese, if entered under quota, were classified in subheading 0406.90.4100, HTSUS, which provides for cheese and curd, other cheese, Romano made from cow's milk, Reggiano, Parmesan, Provolone and Provoletti cheeses: * * * other: * * * made from cow's milk. If entered outside quota, the product would be classified in the appropriate subheading.

"Preparation 101" Swiss formula, flavors 1A, 1B and 1G, which will be made from Swiss cheese, were classified, if entered under quota, in subheading 0404.90.9000, HTSUS, which provides for cheese and curd, * * * other cheese: * * * containing or processed from Swiss, Emmentaler or Gruyere-process cheese * * *. If entered outside quota, the product would be classified in the appropriate subheading.

You have requested that Customs review NY G85242 and reclassify all varieties of "Preparation 101" in Heading 2103, HTSUS, as sauces and preparations thereof.

Issue:

What is the classification of a variety of preparations for cheese sauce?

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied in order.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS headings under consideration are as follows:

- 0406** Cheese and curd:
 - 2103** Sauces and preparations thereof; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:
- * * * * *

2103.90 Other:
* * * * *

Other:
2103.90.90 Other.

You have provided manufacturer's product specifications which indicate that the various formulations of "Preparation 101" all contain approximately 60 percent cheese, 12 percent milkfat and/or vegetable oil, 11 percent water, 9 percent milk and/or whey protein concentrate, and minimal other ingredients.

Heading 0406, HTSUS, provides for cheese and curd. The ENs to heading 04.06 provide that "[t]his heading covers all kinds of cheese." And, further that: "The presence of meat, fish, crustaceans, herbs, spices, vegetables, fruit, nuts, vitamins, skimmed milk powder, etc., does not affect classification **provided** that the goods retain the character of cheese."

GRI 2(b) provides:

Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance.

An application of GRI 2(b) would allow the inclusion of vegetable oil, milk and/or whey protein concentrate, and other preservatives with the predominant amount of cheese in these preparations and still keep the classification in heading 0406. As the EN (XII) to GRI 2(b) states, the rule does not widen the heading to the point where "the addition of another material or substance deprives the goods of the character of goods of the kind mentioned in the heading." Therefore, in this case, only if the inclusion of the stated ingredients deprived the product of its character as cheese, would those ingredients preclude classification of the product in heading 0406.

In support of your contention that the preparations should not be classified as cheese products, you have provided Food and Drug Administration Standards of Identity for various cheeses. You offer the argument that, because these Standards of Identity preclude all of your client's products are from being labeled or marketed as cheese, they should not be classified as cheese. We note that it is a long established principle of Customs practice that the characterization of imported merchandise by governmental agencies for other than tariff purposes does not determine tariff classification. See *United States v. Mercantil Distribuidora et al.*, 45 C.C.P.A. (Customs) 20, C.A.D. 667 (1957); *Marine Products Co. v. United States*, 42 Cust. Ct. 154 (C.D. 2080) (1959). However, Customs does not completely ignore the characterizations of other agencies.

Heading 2103, HTSUS, provides for "Sauces and preparations therefor; mixed condiments and mixed seasonings: * * *." The ENs to this heading state:

"(A) * * * This heading covers preparations, generally of a highly spiced character, used to flavor certain dishes (meat, fish, salads, etc.), and made from various ingredients (eggs, vegetables, meat, fruit, flours, starches, oil, vinegar, sugar, spices, mustard, flavorings, etc.). Sauces are generally in liquid form and preparations for sauces are usually in the form of powders to which only milk, water, etc. need to be added to obtain a sauce."

Heading 2103 is clearly a use provision, which includes products that have been concocted to serve as bases for various types of sauces. We agree that the products are used as preparations for sauces, and are eligible for classification in heading 2103, HTSUS.

In *Orlando Food Corp. v. United States*, 140 F.3d 1437 (Fed. Cir. 1998), the Court of Appeals for the Federal Circuit, in affirming the decision of the Court of International Trade, considered the scope of heading 2103, in particular, the "sauces and preparations therefor" portion of the heading. The court concluded that the scope was a function of the use characteristics of the provision; that is, as long as the product is used in a manner consistent with a preparation for a sauce, the amount or type of ingredients is a secondary consideration. When the court reasoned that the tomato product was *prima facie* classified in the tomatoes provision, as well as the advanced base or preparations for a sauce provision, the use provision prevailed.

In the present case, you have submitted product specification sheets prepared for the subject products as evidence that each formulation of "Preparation 101" is a preparation which "serves as the base for the production of high quality cheese sauces and dressings." Also, from examination of the characteristics of the product, they appear to fall within a class of goods principally used as sauce bases or preparations for a sauce. See Additional U.S. Rule of Interpretation 1(a). Therefore, the product appears to meet the standards of heading 2103. Under these circumstances, we would necessarily follow the *Orlando*

court's principle and conclude under GRI 3(a) that the product is more specifically provided for under the use provision of heading 2103, HTSUS, than under the *eo nomine* provision of heading 0406, HTSUS, that merely describes the product. The court cited the commonly used rationale that "a product described by both a use provision and an *eo nomine* provision is generally more specifically provided for under the use provision" (citing *Siemens Am.*, 653 F.2d 471 at 478.) In this case, that rationale must be equally applicable, because it is more difficult to satisfy the conditions for use as a preparation for a sauce than to satisfy the provisions for "cheese and curd."

Accordingly, it is Customs opinion that the "Preparation 101" formulas 1A, 1B and 1G are properly classified as sauces and preparations therefor in heading 2103, HTSUS. This decision is consistent with HQ 960583, dated April 19, 1999, and HQ 953849, dated October 5, 1993.

Holding:

The products identified as "Preparation 101" which have been assigned formulation codes "1A, 1B and 1G" have the character of a sauce preparation and are classified in sub-heading 2103.90.90, HTSUS, which provides for sauces and preparations therefor; * * * other: other: NY G85242, dated January 11, 2001, is modified in accordance with this decision.

MYLES B. HARMON,
Acting Director,
Commercial Rulings Division.

PROPOSED REVOCATION OF RULING LETTER AND
TREATMENT RELATING TO TARIFF CLASSIFICATION OF A
PLASTIC HEADLIGHT LENS AND PLASTIC PARKING LIGHT
LENS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of ruling letter and treatment relating to tariff classification of a plastic headlight lens and a plastic parking light lens

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended, (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is revoking a ruling letter pertaining to the tariff classification of a headlight lens and a parking light lens, under the Harmonized Tariff Schedule of the United States ("HTSUS"). Similarly, Customs also is revoking any treatment previously accorded by Customs to substantially identical transactions. Customs invites comments on the correctness of the proposed action.

DATE: Comments must be received on or before September 6, 2002.

ADDRESS: Written comments are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs Service, 799 9th Street,

NW, Washington, D.C during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Deborah Stern, General Classification Branch (202) 572-8785.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **informed compliance** and **shared responsibility**. These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs intends to revoke one ruling letter pertaining to the tariff classification of a plastic headlight lens and plastic parking light lens. Although in this notice Customs is specifically referring to one ruling, NY H82055, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No additional rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs intends to revoke any treatment previously accorded to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or to the importer's or Customs' previous interpretation of the

Harmonized Tariff Schedule of the United States. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of the proposed action.

In NY H82055, dated June 6, 2001, Customs classified a headlight lens and a tail light lens in subheading 8512.90.20, HTSUS, as parts of signaling equipment of a kind for cycles or motor vehicles. We stated that the lenses did not have optical properties and were solely protective covers for the automotive lamps.

It is now Customs position that these lenses impart optical properties sufficient for classification in heading 9001, HTSUS, which is the provision for unmounted optical lenses. Although most of the optical properties are provided by the design of the reflector, or housing, of the lamp, the importer submitted to us that the lenses are manufactured with specific slopes and thickness to spread and direct the light a certain way. Therefore, the lenses are classifiable in subheading 9001.90.40, HTSUS, which provides for "Optical fibers and optical fiber bundles; optical fiber cables other than those of heading 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass, not optically worked: other: lenses."

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to revoke NY H82055 (Attachment A) to reflect the proper classification of the subject merchandise and any other ruling not specifically identified, classifying the same or substantially similar merchandise, pursuant to the analysis set forth in HQ 965192 (Attachment B). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical merchandise. Before taking this action, we will give consideration to any written comments timely received.

Dated: July 18, 2002.

MARVIN AMERNICK,
(for Myles B. Harmon, Acting Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, June 6, 2001.

CLA-2-85:RR:NC:MM:101 H82055
Category: Classification
Tariff No. 8512.90.2000

MR. SPIRO KARRAS
SANDLER & TRAVIS TRADE ADVISORY SERVICES, INC.
38345 Ten Mile Road
Farmington Hills, MI 48335

Re: The tariff classification of Automobile Headlight and Tail light lenses from Canada.

DEAR MR. KARRAS:

In your letter dated May 18, 2001 you requested a tariff classification ruling.

You submitted samples of a plastic automobile Headlight and Tail light lenses. You state that the headlight lens assembly has a 5" x 3" oval yellow plastic lens that is attached to a clear plastic lens that is 20" x 4½" and has a clear plastic border. The tail light lens is approximately 14" x 3½" and is entirely of one piece molded construction, with a black border.

You state that you believe that the automobile headlight and tail light lenses should be classified under heading HTS 9001, which covers unmounted lenses. You are of the opinion that the lenses should be classified as unmounted because the term "mounted" implies that two separate pieces, a lens and a frame, are somehow attached together in some manner. You state that these two lenses are all of one-piece construction with the lenses.

We disagree with your opinion that the headlight and tail light lenses be classified under heading HTS 9001. The tail light lens does not have optical properties. It is a protective cover for the lighting apparatus. The headlight lens with the yellow oval is not considered to be an optical lens. The clear plastic portion as protection for the lighting apparatus imparts the essential character.

The applicable subheading for the automobile Headlight and Tail light lenses will be 8512.90.2000, Harmonized Tariff Schedule of the United States (HTS), which provides for Electrical lighting or signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind used for cycles or motor vehicles; parts thereof: Parts: Of signaling equipment. The rate of duty will be 2.5% ad valorem.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Robert DeSoucey at 212-637-7035.

ROBERT B. SWIERUPSKI,
Director,
National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR:CR:GC 965192 DBS
Category: Classification
Tariff No. 9001.90.40

MR. SPIRO KARRAS
SANDLER & TRAVIS TRADE ADVISORY SERVICES, INC.
38345 Ten Mile Road
Farmington Hills, MI 48335

Re: Reconsideration of NY H82055; Plastic automobile headlight lens and parking and signal lens.

DEAR MR. KARRAS:

This is in reference to your letters of July 31, 2001 and January 11, 2002, requesting reconsideration of NY H82055, dated June 6, 2001. In NY H82055, issued to you on behalf of Guide Corporation, the Director, National Commodity Specialist Division, New York, classified a plastic headlight lens and plastic parking and signal lens in subheading 8512.90.20, Harmonized Tariff Schedule of the United States (HTSUS), as parts of electrical and signaling equipment of a kind used in motor vehicles. We have reconsidered the classification of the two lenses and now believe NY H82055 is incorrect.

Facts:

Both of the lenses at issue cover an incandescent light sources. The housing for the lamp has "developed optical facets" in the reflector. Each of the facets is designed to move the light to a certain area of the beam pattern. The plastic headlight lens (GM 16525875) was identified in NY H82055 as being a 5" x 3" oval yellow plastic lens attached to a clear plastic lens measuring 20" x 4 1/2" with a clear plastic border. You submitted letters from representatives of the corporation to Customs stating that the lens is actually one piece, produced in a multicolor molding machine that incorporates a single mold with two injection points. The yellow (amber) portion is concave, and not flush with the clear part. It is yellow to meet the color requirement for the parking/turn signal function. The border is actually a "leg lens," which is part of the lens. It is used to attach the lens to the housing by fitting the "leg" into a channel on the housing, and is secured by a bonding agent.

The plastic parking and signal lens (GM 16514377), which was erroneously identified as a tail light lens in NY H82055, is 14" x 3 1/2" (approx.). The lens is a single piece of smoke-colored plastic. It is manufactured by injecting hot plastic into a two piece mold, allowing it to cool and then ejecting it. Samples were submitted.

NY H82055 classified the merchandise in subheading 8512.90.20, HTSUS, which provides for parts of signaling equipment of a kind used for motor vehicles. You contend the merchandise has optical properties and that qualifies it as unmounted lenses of subheading 9001.90.40, HTSUS.

Issue:

Whether the merchandise has optical properties so that it may be classified in heading 9001, HTSUS, as optical lenses.

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. Customs believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

8512	Electrical lighting and signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind for cycles or motor vehicles; parts thereof:
8512.90	Parts:
8512.90.20	Of signaling equipment
*	*
*	*
*	*
*	*
*	*
9001	Optical fibers and optical fiber bundles; optical fiber cables other than those of heading 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass, not optically worked:
9001.90	Other:
9001.90.40	Lenses

The ENs include within heading 9001, HTSUS “(D) Optical elements of any material other than glass, whether or not optically worked, not permanently mounted (e.g., elements of *** plastics ***).” Therefore, we interpret the scope of the heading to provide for plastic articles if they qualify as optical elements. In order to determine if an article is an optical element, we turn to the distinctions between optical elements of glass of heading 7014, HTSUS and similar optical elements of glass provided for in heading 9001, HTSUS, because the distinctions are instructive as to what qualifies as an optical element.

To be classifiable in heading 9001, HTSUS, an optical element of glass must be optically worked. The EN 90.01(C) states, in pertinent part, that the heading applies to elements [of glass] that have been ground and polished to create certain optical properties. This is, in short, optical working. If the glass element is not optically worked, but still imparts optical properties, the glass is be classifiable in heading 7014, HTSUS. EN 70.14 describes optical elements of glass as follows:

(B) Optical elements of glass (colourless or coloured). The heading includes elements which are manufactured in such a way that they produce some required optical effect without being optically worked. These articles mainly include lenses and similar articles for automobile headlamps, parking lights, direction indication lights ***

The ENs for chapters 70 and 90, read in *para materia*, suggest that plastic automotive lenses may be considered optical elements of chapter 90 if manufactured in such a way as to impart optical properties, or optically worked to impart such properties. See HQ 959139, dated August 16, 1996. Thus, we must determine whether the instant articles impart optical properties such that they would be classifiable as optical elements of heading 9001, HTSUS, as they could not be classifiable in heading 7014, HTSUS, because they are not glass.

Customs has discussed specific optical properties only with reference to glass lenses, and not any other material. In HQ 951709, dated October 5, 1992, the optical properties of certain fire-polished glass lenses were specific focal lengths and focal points. In HQ 959905, dated January 22, 1999, the importer stated that the optical properties of colored filter glass included filtering ultraviolet rays and allowing infrared/thermal radiation to pass through the glass. We find the examples enumerated in previous Customs rulings to be instructive in showing that the lens must be manufactured to perform certain relatively specific functions.

In common meaning, the term “lens (optics)” is defined as, “A curved piece of ground and polished or molded material, usually glass, used for the refraction of light.” McGraw-Hill Encyclopedia of Science & Technology, Vol. 9 (1987), p. 663. Light refraction is an optical property for purposes of classification in heading 9001, HTSUS, because any transparent article refracts light passing through it to some extent. The lens must have a purpose beyond mere protection or incidental refraction. Thus, classification of a lens of this type is determined on a case by case basis. In HQ 959139, *supra*, we classified an automobile headlight lens in subheading 9001.90.40, HTSUS, there were patterns molded into the lens and the importer submitted blueprints demonstrating how the light was refracted by the patterns. See also NY 876023, dated July 28, 1992 (classifying a plastic tail lamp lens with pattern in subheading 9001.90.40, HTSUS) and NY 818099, dated February 2, 1996 (classifying a tail lamp lens and a park lamp lens in subheading 9001.90.40, HTSUS). Similarly, many lenses now do not require patterns because most of the optics of a headlight or parking light lamp are designed in the reflectors (i.e., reflector optics).

Thus, the reflector optics of the headlight are manufactured to compensate for refraction by the lens, such as loss of light.

You state that the horizontal and vertical slope of the plastic lenses at issue, as well as the thickness of the lens, are adjusted in their manufacture to further direct the light and to spread the light from the center to the outer edges. Moreover, if the lenses did not have these optical properties, the plastic would distort the light. To buttress these statements, you provided us with photometric test results on the reasonably significant differences in the candlepower, which is "the luminous intensity of a source of light expressed in candelas," *Photonics Dictionary 2002*, of the light source both with and without the lens. We are satisfied that there are optical properties manufactured into the instant lenses.

Holding:

The instant headlight lens and park and signal lens are classifiable in subheading 9001.90.40, HTSUS, which provides for, "Optical fibers and optical fiber bundles; optical fiber cables other than those of heading 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass, not optically worked: other: lenses."

Effect on Other Rulings:

NY H82055, dated June 6, 2001, is hereby REVOKED.

MYLES B. HARMON,
Acting Director,
Commercial Rulings Division.

MODIFICATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF RELAYS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of modification of ruling letter and revocation of treatment relating to tariff classification of relays.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying a ruling letter pertaining to the tariff classification of relays under the Harmonized Tariff Schedule of the United States ("HTSUS"), and is revoking any treatment previously accorded by Customs to substantially identical transactions. Notice of the proposed actions was published in the *CUSTOMS BULLETIN* on June 12, 2002. The only comment received is discussed in the attached ruling HQ 964656.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 7, 2002.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, General Classification Branch, (202) 572-8780.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), a notice was published in the CUSTOMS BULLETIN on June 12, 2002, proposing to modify HQ 962138, dated July 28, 1999, which involved the classification of numerous articles. The proposed modification pertained only to relays. One comment was received in response to the notice. That comment is discussed in HQ 964656, which is set forth as the Attachment to this document.

As stated in the proposed notice, this modification will cover any rulings on the subject merchandise which may exist but which have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised Customs during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule. Any person involved in substantially identical transactions should have advised Customs during the comment period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its

agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is modifying HQ 962138 and any other ruling not specifically identified in order to reflect the proper classification of the relays pursuant to the analysis set forth in HQ 964656. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by the Customs Service to substantially identical transactions.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

Dated: July 23, 2002.

MARVIN AMERNICK,
(for Myles B. Harmon, Acting Director,
Commercial Rulings Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, July 23, 2002.
CLA-2 RR:CR:GC 964656 GOB
Category: Classification
Tariff No. 9107.00.80 and 8536.49.00

CURTIS W. KNAUSS
JOHN M. PETERSON
NEVILLE PETERSON LLP
*80 Broad Street - 34th Floor
New York, NY 10004*

Re: HQ 962138 Modified; Relays.

DEAR MESSRS. KNAUSS AND PETERSON:

This is in response to your letter of November 1, 2000, on behalf of Rockwell Automation/Allen-Bradley Co., LLC ("Allen-Bradley"), requesting reconsideration of HQ 962138 dated July 28, 1999, issued to Allen-Bradley with respect to the classification, under the Harmonized Tariff Schedule of the United States ("HTSUS"), of numerous articles. We have also considered the claims made by you in a conference held at Customs Headquarters on November 26, 2001 and in a submission of December 18, 2001.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of HQ 962138, as described below, was published in the CUSTOMS BULLETIN on June 12, 2002.

The comment submitted by you on behalf of Allen-Bradley was the only comment received in response to the notice. In your comment, you make the following claims in support of your position that the goods are classified in heading 8536, HTSUS: 1. Relays are not switches, and are therefore not classified as switches; they are different products which have different functions. 2. The relays do not contain a clock or watch movement.

Our response to your claims is as follows. Switches and relays are similar devices. This is evident from the language of EN 85.36 which describes relays, including time-delay relays

under the following heading: “(I) APPARATUS FOR SWITCHING ELECTRICAL CIRCUITS.” [Emphasis in original.] Thus, the relays of heading 8536, HTSUS, are apparatus for switching electrical circuits.

The crucial inquiry here is whether the relays meet the terms of heading 9107, HTSUS, i.e., are they time switches with clock or watch movements? As the analysis below indicates, we believe that three of the subject relays are time switches with clock or watch movements and are therefore described in heading 9107, HTSUS. Contrary to one of your claims, there are timing relays which use means of timing other than clock or watch movements, e.g., pneumatic time-delay relays and thermal time-delay relays.

In summary, the claims made in your comment have not persuaded us to substantively amend or withdraw our proposal to modify HQ 962138.

Facts:

HQ 962138 concerned the classification of numerous items. You request reconsideration of the classification of certain relays, which were classified in subheading 9107.00.80, HTSUS, as; “Time switches with clock or watch movement or with synchronous motor: * * * Valued over \$5 each.”

In your letter of November 1, 2000, you describe the goods as follows:

The merchandise in question consists of certain “HR” and “HT” Series solid state electrical timing relays imported from Japan and Switzerland * * * These timing relays are connected in an electrical system, usually on a control panel in an appropriate socket. The timing relay is a component of an integrated electrical system that may include several other electrical components. The function of the timing relay is to provide electrical power to specific apparatus at a specified time after electrical power has been applied to the entire electrical system. When power is applied to the timing relay, the interior electrical components provide a specific delay period, programmed by the user, for the application of electrical current to the particular apparatus in the electrical circuit or system. The time intervals can be set by the customer within a range specified by the particular timing relay.

In order to set a delay period, the customer manually turns the timing potentiometer, or dial, on the timing relay with the use of a screwdriver.

The timing relays are used in various applications. The most widely used application for the timing relays is in a control panel on an assembly operation or conveyor line. Specific assembly operations are controlled with timing relays so that specific operations are performed in the correct sequence, at the correct time through the prescribed automated procedure * * *

The timing relay consists of a number of electrical components contained in a plastic housing. The interior electrical components are composed of: a set of moveable contact blocks; a set of stationary contact blocks; a wound magnetic coil mounted on a stack of steel laminations; and a circuit board containing various components including resistors that regulate the period of time between cycles of the timing relay.

You have provided samples of each of the subject five relays which you enumerate as follows:

- | | |
|-------------------|----------|
| 1. 700DC-R130Z24 | Series B |
| 2. 700-FSA3UU23 | Series B |
| 3. 700-HB33A1-3 | Series D |
| 4. 700-HSF12F15A1 | Series A |
| 5. 700-HT12BA1 | Series A |

Issue:

What is the classification under the HTSUS of the subject relays?

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (“GRI’s”). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI’s may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes (“EN’s”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN’s provide a commentary

on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

8536	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 V:
	Relays:
8536.49.00	Other
*	* * * *
9107	Time switches with clock or watch movement or with synchronous motor:
9107.00.80	Valued over \$5 each

EN 85.36 provides in pertinent part as follows.

These apparatus consist essentially of devices for making or breaking one or more circuits in which they are connected, or for switching from one circuit to another * * * This group also includes change-over switches and relays * * *

* * * * *

(C) **Relays** are electrical devices by means of which the circuit is automatically controlled by a change in the same or another circuit. They are used, for example, in telecommunication apparatus, road or rail signalling apparatus, for the control or protection of machine tools, etc. [Emphasis in original.]

EN 91.07 provides in pertinent part as follows:

This heading covers devices which do **not** have the character of clocks of heading 91.05, but are mainly designed to make or break electric circuits automatically at given times, usually at times determined according to a previously established daily or weekly programme. To be included in this heading these devices **must have** a movement of the watch or clock type (including secondary or synchronous motor clock movements) or a synchronous motor with or without reduction gear.

Time switches are used for the control of lighting circuits (for public places, shop windows, staircases, illuminated signs, etc.), heating circuits (water heaters, etc.), cooling installations, pumps, two-rate electricity supply meters, etc. They consist essentially of a mechanical or electric movement of the watch or clock type or a synchronous motor, usually a dial with or without hands, a time-regulating device (levers and pins), together with systems of driving relays, switches and commutators.

[All emphasis in original.]

The General EN for Chapter 91, HTSUS, provides in pertinent part as follows:

This Chapter covers certain apparatus designed mainly for measuring time or for *affecting some operation in relation to time*. [Emphasis provided.]

Chapter 91, Note 3, HTSUS, provides as follows:

For the purposes of this chapter, the expression “*watch movements*” means devices regulated by a balance wheel and hairspring, quartz crystal or any other system capable of determining intervals of time, with display or a system to which a mechanical display can be incorporated. Such watch movement shall not exceed 12 mm in thickness and 50 mm in width, length or diameter. [Emphasis in original.]

Chapter 91, Additional U.S. Note 1(d) provides as follows:

The term “*clock movements*” means devices regulated by a balance wheel and hairspring, quartz crystal or any other system capable of determining intervals of time, with a display or a system to which a mechanical display can be incorporated. Such clock movements shall either exceed 12 mm in thickness or 50 mm in width, length or diameter, or both. [Emphasis in original.]

We referred this matter to the Customs Service Office of Laboratories and Scientific Services for its review. In Laboratory Report # SF20011771 dated April 18, 2001, the Customs San Francisco Laboratory stated in pertinent part as follows:

Relays (1) and (3) [700DC-R130Z24, Series B and 700-HB33A1-3, Series D, respectively; see the listing of the relays in the FACTS section] have no timing capability, although a timing module option is available for (1). Relays (1) and (3) do not have a

clock or watch movement, or a synchronous motor. Relays of this type, in our opinion, fall under HTSUS heading 8536.

Relays (2), (4), and (5) [700-FSA3UU23, Series B, 700-HSF12F15A1, Series A, and 700-HT12BA1, Series A, respectively; see the listing of the relays in the FACTS section] are identified as timing relays and each has electronic circuitry that performs the timing functions. Each of these circuits contains a component that is “* * * capable of determining intervals of time * * *” The time delay for relay (4) is factory set, while it can be user-changed in (2) and (5). In our opinion, relays (2), (4), and (5) contain a watch or clock movement as described in Note 3 or Additional U.S. Note 1(d) to HTSUS Chapter 91. We believe that they are “time switches” of HTSUS heading 9107.

Our discussions with the Customs Laboratory indicated that relays (2), (4), and (5) have a system to which a mechanical display can be incorporated. See the definitions of “watch movements” and “clock movements,” above.

The Customs Laboratory provided us with the following definitions of “relays.” *IEEE 100, The Authoritative Dictionary of IEEE Standards Terms* (7th ed., 2000): “An electrically controlled, usually two-state, device that opens and closes electrical contacts to effect the operation of other devices in the same or another electrical circuit.” *Electromechanical Design Handbook* by Ronald Walsh (3rd ed., 2000): “Relays are switching devices that are available with a multitude of contact arrangements, coil-voltage ratings, contact-voltage ratings, and contact-current ratings.” *The Art of Electronics* by Paul Horowitz and Winfield Hill (2nd ed.; 1989): “Relays are electrically controlled switches.”

Other definitions of “relays” are as follows. *The Dictionary of Multimedia Terms & Acronyms* by Bill Hansen (1997): “A type of switch that is electronically opened or closed to connect circuitry.” *The Computer Glossary* by Alan Freedman (1998): “An electrical switch that allows a low power to control a higher one. A small current energizes the relay, which closes a gate, allowing a large current to flow through.”

In *American Division of Magic Chef, Inc. v. United States*, 14 CIT 868, 754 F Supp. 881 (1990), the court considered Customs classification of defrost control timers as time switches under item 715.62, Tariff Schedules of the United States, which was the predecessor provision to heading 9107, HTSUS. (The superior heading to item 715.62 provided for: “Time switches with watch or clock movements, or with synchronous or subsynchronous motors.”) We believe certain language of the court is instructive as to heading 9107, HTSUS. The court stated:

Nothing in the record or authorities cited leads this Court to conclude that Congress intended time switches to carry the restrictive and technical definition which plaintiff attaches. If the Court were to adopt plaintiff’s definition of a time switch under TSUS item 715.62, then any device that makes or breaks an electric circuit after it measures an interval of time predetermined by the manufacturer, standing alone, could not be a time switch. As discussed herein, the Court finds that Congress did not contemplate that time switches tell the time of day, have dials, operate continuously without interruptions, and be set by the consumer to operate at clock times. Presumably, some time switches require those characteristics to carry out their intended functions. Nevertheless, the defrost control timers in their present condition satisfy the principal requirements for time switches found in the *Tariff Classification Study, the Brussels Nomenclature*, and in paragraph 368(a) of the Tariff Act of 1930. They make or break electric circuits after they have measured a specific time interval as predetermined by the manufacturer. [Emphasis in original.]

We believe that this language of the court is instructive as to the scope of heading 9107, HTSUS. For example, Congress has indicated that earlier tariff decisions must not be disregarded in applying the HTSUS. The conference report to the Omnibus Trade Bill of 1988 states that “on a case-by-case basis prior decisions should be considered instructive in interpreting the HTS[US], particularly where the nomenclature previously interpreted in those decisions remains unchanged and no dissimilar interpretation is required by the text of the HTS[US].” Rep. No. 100-576, 100th Cong, 2d Sess. 548, 550 (1988).

After a careful consideration of this matter we make the following determinations.

Relays (1) and (3), as enumerated in the FACTS section (700DC-R130Z24, Series B and 700-HB33A1-3, Series D, respectively) do not have a clock or watch movement or a synchronous motor. Therefore, they are not described in heading 9107, HTSUS. Accordingly, we find that they are described in heading 8536, HTSUS, and are classified in subheading 8536.49.00, HTSUS, as: “Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays,

fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 V: * * * Relays: * * * Other.”

Relays (2), (4), and (5), as enumerated in the FACTS section [700-FSA3UU23, Series B, 700-HSF12F15A1, Series A, and 700-HT12BA1, Series A, respectively] have watch or clock movements as defined in the Notes to Chapter 91 and are time switches. Therefore, they are classified in subheading 9107.00.80, HTSUS, as: “Time switches with clock or watch movement or with synchronous motor: * * * Valued over \$5 each.”

Holding:

Relays (1) and (3), as enumerated in the FACTS section (700DC-R130Z24, Series B and 700-HB33A1-3, Series D, respectively) are classified in subheading 8536.49.00, HTSUS, as: “Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 V: * * * Relays: * * * Other.”

Relays (2), (4), and (5), as enumerated in the FACTS section [700-FSA3UU23, Series B, 700-HSF12F15A1, Series A, and 700-HT12BA1, Series A, respectively] are classified in subheading 9107.00.80, HTSUS, as: “Time switches with clock or watch movement or with synchronous motor: * * * Valued over \$5 each.”

Effect on Other Rulings:

HQ 962138 is modified. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for Myles B. Harmon, Acting Director,
Commercial Rulings Division.)

PROPOSED MODIFICATION AND REVOCATION OF RULING
LETTERS AND REVOCATION OF TREATMENT RELATING TO
THE TARIFF CLASSIFICATION OF GOLF BAG COMPONENTS
IMPORTED WITHOUT BOTTOMS AND MADE OF TEXTILE
FABRIC OF MAN-MADE FIBERS

AGENCY: U.S. Customs Service; Department of the Treasury.

ACTION: Notice of proposed modification and revocation of tariff classification ruling letters and revocation of treatment relating to the classification of golf bag components imported without bottoms and made of fabric of man-made textile fibers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)) as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke two rulings and modify one ruling relating to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of golf bag components imported without bottoms and made of fabric of man-made textile fibers. Customs also proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before September 6, 2002.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at: U.S. Customs Service, 799 9th Street, N.W., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: J. Steven Jarreau, Textiles Classification Branch: (202) 572-8817

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility.**" These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended, 19 U.S.C. 1484, the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met. Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)) as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to modify one ruling letter and revoke two ruling letters relating to the tariff classification of golf bag components imported without bottoms and made of fabric of man-made textile fibers.

Although in this notice Customs is specifically referring to three Headquarters Ruling Letters, this notice covers any rulings on this merchandise that may exist, but have not been specifically identified. Customs has undertaken reasonable efforts to search existing databases for rulings in addition to those identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, a ruling letter, an internal advice memorandum or decision or a protest review decision) on the merchandise subject to this notice, which classified the merchandise contrary to this notice, should advise Customs during this comment period. Similarly, pursuant to section

625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)) as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by Customs to substantially identical merchandise. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUSA. Any person involved with substantially identical merchandise should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical merchandise or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importers or their agents for importation of merchandise subsequent to the effective date of the final decision on this notice.

The Customs Service in Headquarters Ruling Letters (HQ) 957006 (June 27, 1995), HQ 958915 (Feb. 27, 1996) and HQ 961056 (Feb. 11, 1998), classified man-made textile fabric golf bag components, primarily golf bag body sleeves or panels, imported both with and without golf bag hoods, slings, clips, top and bottom boots, and other components, but specifically imported without bottoms, in subheading 4202.92.3031, HTSUSA. Headquarters Ruling Letters 957006 (June 27, 1995), HQ 958915 (Feb. 27, 1996) and HQ 961056 (Feb. 11, 1998), are set forth as "Attachment A," "Attachment B" and "Attachment C," respectively, to this document.

It is now Customs determination that golf bag components of fabric of man-made textile fibers, primarily golf bag body sleeves or panels, imported both with and without golf bag hoods, slings, clips, top and bottom boots, and other components, but specifically imported without bottoms, are properly classified pursuant to General Rule of Interpretation 1 in subheading 6307.90.9889, HTSUSA. Proposed Headquarters Ruling Letter 965605, revoking HQ 957006, is set forth as "Attachment D," proposed Headquarters Ruling Letter 965604, revoking HQ 958915, is set forth as "Attachment E" and proposed Headquarters Ruling Letter 965603, modifying HQ 961056, is set forth as "Attachment F" to this document.

The legal reasoning and analysis set forth in HQ 964538 (Nov. 19, 2001) is incorporated into and made a part of proposed HQ 965603, HQ 965604 and HQ 965605. Headquarters ruling letter 964538 is set forth as "Attachment G" to this document.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to revoke HQ 957006 and HQ 958915, and to modify HQ 961056, and any other rulings not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 964538 (Nov. 19, 2001), which is incorporated by reference in proposed HQ 965605, HQ 965604 and HQ 965603. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Cus-

toms to substantially identical merchandise. Before taking this action, consideration will be given to any written comments timely received.

Dated: July 23, 2002.

JOHN ELKINS,
(for Myles B. Harmon, Acting Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, June 27, 1995.
CLA-2 R:C:T 957006 ch
Category: Classification
Tariff No. 4202.92.3030 and 6307.90.9989

DAVID C. SOTO
EXECUTIVE PROJECT MANAGER
V. ALEXANDER & Co., INC.
*15 Century Boulevard Suite 400
Nashville, TN 37214-3650*

Re: Tariff classification of an unfinished and partially unassembled golf bag.

DEAR MR. SOTO:

This is in response to your letter, dated September 7, 1994, requesting tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) for an unfinished and partially unassembled golf bag. That portion of your request concerning the country of origin marking for the merchandise will be the subject of a separate letter.

Facts:

The submitted samples consist of a body sleeve and other pre-fabricated components for a golf bag. The body sleeve measures approximately 30 inches in length and 13 inches in width. It is composed of 200/400 denure nylon fabric with a PVC backing and has been made up so as to assume a tubular form. The sleeve comes complete with three zippered compartments, three air flow pockets, a female clip for a shoulder strap and a carrying handle. The material at the top and bottom of the sleeve has been trimmed and has not been hemmed or mended.

Other components include a cover composed of woven 210 denure nylon fabric. The cover features a top opening, two button snaps and a zipper closure on one side. It is designed to snap onto the completed golf bag to protect golf club heads during inclement weather.

Also included are top and bottom collars for the body sleeve which are composed of polyethylene plastic. The top collar also possesses an outer surface of woven 200/400 denure nylon fabric. A nylon shoulder strap with acrylic padding, three woven nylon strips, a ring and a buckle are also imported for incorporation into the finished bag.

You state that after importation the components will be assembled with other components of U.S. origin. The U.S. components include a bag frame, acrylic inner bag lining, a molded top collar and a molded PVC base.

Issues:

What is the proper tariff classification for the body sleeve and the remaining components when entered together?

What is the proper tariff classification for the body sleeve and the remaining components when entered in separate shipments?

Law and Analysis:

Heading 4202, HTSUS, provides in part for travel, sports and similar bags. Chapter 42, Additional U.S. Note 1, HTSUS, states that:

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. (Emphasis added).

The Explanatory Note to heading 4202, at page 613, indicates that golf bags are regarded as sports bags for the purposes of the heading.

General Rule of Interpretation (GRI) 2(a) states:

Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.

The first part of GRI 2(a) extends the scope of an article provision to cover not only the complete article, but also that article incomplete or unfinished, provided that, as presented, it has the essential character of the complete or finished article. See Explanatory Note (I) to GRI 2(a). The second part of the rule provides that an article presented unassembled is classified in the same heading as the assembled article. See Explanatory Note (V) to GRI 2(a). In addition, an unfinished article possessing the essential character of the finished article remains classifiable as the finished article when presented unassembled. See Explanatory Note (VI) to GRI 2(a).

In this instance, the submitted sample is an unfinished and partially unassembled golf bag. Accordingly, classification turns on whether the component parts, as presented, possess the essential character of a finished golf bag. In the first scenario, the body sleeve and the remaining components are presented together. When assembled, the imported body bag and other components are dedicated for use in, and possess the approximate shape or outline of, the finished golf bag. Moreover, we are of the opinion that the imported components are indispensable to the structure of the final product and include the most important constituent materials in relation to the use of the goods. Consequently, when presented together the body bag and the remaining components are classified as a sports bag of heading 4202, HTSUS.

In the second scenario, the body bag and the remaining components are imported in separate shipments. In Headquarters Ruling Letter (HRL) 085391, dated December 20, 1989, we determined that a golf bag body did not possess the essential character of the finished article when imported individually. Accordingly, it was classified according to its constituent materials. As the instant body bag is substantially similar to the goods at issue in (HRL) 085391, we conclude that it is classifiable in heading 6307, HTSUS, which is the residual provision for articles of textiles. In addition, we are of the opinion that the remaining components, when imported without the body bag, do not possess the essential character of the finished article. Therefore, they shall also be classified according to their constituent materials.

Holding:

The body bag and remaining components, when presented together, are classifiable under subheading 4202.92.3030, HTSUS, which provides for travel, sports and similar bags: with outer surface of textile materials: other: other: of man-made fibers: other. The applicable rate of duty is 19.8 percent ad valorem. The textile category is 670.

The body bag, when imported individually, is classifiable in subheading 6307.90.9989, HTSUS, which provides for other made up articles, including dress patterns: other: other: other: other. The applicable rate of duty is 7 percent ad valorem.

The remaining components, when imported without the body bag, are classified according to their constituent materials.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are the subject of frequent negotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the Status Report on Current Import

Quotas (Restraint Levels), an issuance of the U.S. Customs Service, which is updated weekly and is available at the local Customs office.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact the local Customs office prior to importing the merchandise to determine the current status of any import restraints or requirements.

JOHN DURANT,
Director,
Commercial Rulings Division.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, February 27, 1996.
CLA-2 RR:TC:TE 958915 SK
Category: Classification
Tariff No. 4202.92.3030 and 6307.90.9989

CHRISTOPHER G. STAFF, JR.
C.G. STAFF COMPANIES
2369 S. 200th Street
Seattle, WA 98198

Re: Classification of unfinished and partially assembled golf bag; golf bag, golf bag top hood/cover and golf bag padded shoulder strap; HRL 957006 (6/27/95).

DEAR MR. STAFF:

This is in response to your letter of April 30, 1995, on behalf of Sundara Industries, Ltd., in which you request a binding classification ruling for an unfinished and partially assembled golf bag, a golf bag top hood/cover and a golf bag padded shoulder strap.

Facts:

The articles at issue are described as follows. The unfinished, partially assembled golf bag is wholly constructed of man-made textile materials. The bag body is complete with all pockets and compartments and is in a knocked down condition. The bag does not contain support rods, base or top collar.

The finished golf bag top hood/cover is wholly constructed of man-made textile materials. The hood is an accessory covering the exposed head of the clubs and is not an actual part of the golf bag.

The golf bag shoulder strap has an outer surface of either 100 percent nylon or 100 percent polyester and internal padding of man-made foam material.

Although you state in your submission to this office that the three articles described above are "to be imported as separate items," it is not clear whether this means that the goods will arrive in the U.S. in separate shipments, or whether the articles are merely packaged or boxed separately. After importation, these articles will be assembled into the completed golf bag with accessory hood.

Issue:

What is the proper classification of the subject merchandise?

Law and Analysis:

Classification of merchandise under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is governed by the General Rules of Interpretation (GRI's). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes, taken in order. Merchandise that cannot be classified in accordance with GRI 1 is to be classified in accordance with subsequent GRI's, taken in order.

Heading 4202, HTSUSA, provides in part for travel, sports and similar bags. The Explanatory Note to heading 4202, HTSUSA, at page 613, indicates that golf bags are regarded as sports bags for purposes of classification within this heading.

GRI 2(a) states:

“Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also include a reference to that article complete or finished (or failing to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.”

Our initial examination is whether the unfinished golf bag, in its condition as imported, possesses the essential character of a finished golf bag. In this case, you state that the body bag is imported separately from the shoulder strap and the golf bag top hood/covers. This office has previously held that golf body bags, imported without their remaining components, do not possess the essential character of the finished article. See Headquarters Ruling Letters (HRL's) 085391, dated December 202, 1989, and 957006, dated June 27, 1995. The golf body bag will be classified separately according to its constituent materials. As the instant golf body bag is substantially similar to those classified in the above-cited rulings, we conclude it is classifiable under heading 6307, HTSUSA, which is the residual provision for articles of textiles. We further note that the remaining articles do not, by themselves, possess the essential character of a finished golf bag. Accordingly, the shoulder strap and the hood/cover are classifiable according to their constituent materials in the same heading.

In your letter to this office you state that the three articles described above are “to be imported as separate items.” It is not clear whether this means that the goods will arrive in the U.S. in separate shipments, or whether the articles are merely packaged or boxed separately. If the former importation scenario applies, the goods will be classified separately in heading 6307, HTSUSA, for the reasons set forth supra.

If, however, these articles arrive in the U.S. in the same shipment, but merely packaged separately, the classification analysis will turn on whether these three articles, taken together, have the essential character of a complete or finished golf bag as per GRI 2(a). This classification scenario was presented in HRL 957006, in which this office determined that “the imported body bag and other components (cover and shoulder strap) are dedicated for use in, and possess the approximate shape or outline of, the finished golf bag.” We concur in this instance and find that if the golf body bag, shoulder strap and cover/hood are imported in the same shipment, they are classifiable as a sports bag, of man-made fibers, under subheading 4202.92.3030, HTSUSA.

Holding:

If the three articles are imported in separate shipments, the knocked down golf body bag, shoulder strap and cover/hood are all separately classifiable under subheading 6307.90.9989, HTSUSA, which provides for other made up articles, including dress patterns: other: other: other * * * other: other * * *. The applicable rate of duty is 7 percent ad valorem.

If the three articles at issue are imported together in the same shipment, the merchandise is classifiable under subheading 4202.92.3030, HTSUSA, which provides for, in pertinent part, other sports bag, of man-made fibers, dutiable at a rate of 19.5 percent ad valorem. The attendant textile quota category is 670.

The designated textile and apparel categories may be subdivided into parts. If so, the visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent and changes, to obtain the most current information available we suggest that you check, close to the time of shipment, the Status Report on Current Import Quotas (Restraint Levels), an internal issuance of the U.S. Customs Service which is updated weekly and is available for inspection at a local Customs office.

Due to the nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact the local Customs office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

JOHN DURANT,
Tariff Classification Appeals Division.

[ATTACHMENT C]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, February 11, 1998.

CLA-2 RR:CR:TE 961056 RH
Category: Classification
Tariff No. 6307.90.9989,
7326.90.8585, and 4202.92.3030

EDWARD L. HART, JR.
IMPORT MANAGER
V. ALEXANDER & CO., INC.
P.O. Box 30250
Memphis, TN 38130-0250

Re: Classification of finished and partially finished golf bags; heading 4202; heading 6307; country of origin marking; 19 C.F.R. §102.21.

DEAR MR. HART:

This is in reply to your letter dated August 15, 1997, on behalf of Arnold Palmer Golf Company, requesting a ruling on the classification and marking of unfinished and partially unassembled golf bags.

You sent a sample of the golf bag components to aid us in our determination.

Facts:

The merchandise at issue is a partially unassembled or unfinished vinyl and nylon golf bag (UPUGB, style 854), made up of a body sleeve, organizer top assembly, sling, top boot, clip, hoods, bottom boot and D-ring. These components will be produced in China and sent to the United States to be assembled with U.S.-origin components (plastic bottom, poly tube body liner, rivets and a metal D-clip) into a finished golf bag.

Issues:

What is the classification of the body sleeve and the remaining Chinese components when entered into the United States in the same shipment? What is the classification of these components when entered separately?

What are the marking requirements under both scenarios?

Law and Analysis:

Classification of goods under the Harmonized Tariff Schedule of the U.S. Annotated (HTSUSA), is governed by the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes. Where goods cannot be classified solely on the basis of GRI 1, the remaining GRIs will be applied, in the order of their appearance.

Heading 4202, HTSUSA, provides in part for travel, sports and similar bags. The Explanatory Notes (EN) to heading 4202, at page 613, indicate that golf bags are regarded as sports bags for the purposes of that heading.

GRI 2(a) states that:

Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also include a reference to that article complete or finished (or falling [sic] to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.

The first part of GRI 2(a) extends the scope of an article provision to cover not only the complete article, but also that article incomplete or unfinished, provided that, as presented, it has the essential character of the complete or finished article. See Explanatory Note (I) to GRI 2(a). The second part of the rule provides that an article presented unassembled is classified in the same heading as the assembled article. See Explanatory Note (V) to GRI 2(a). In addition, an unfinished article possessing the essential character of the finished article remains classifiable as the finished article when presented unassembled. See Explanatory Note (VI) to GRI 2(a).

In one of the scenarios you propose, the body sleeve and the remaining components are entered together. The imported body sleeve and other components are dedicated for use

in, and possess the approximate shape or outline of, the finished golf bag. Moreover, we find that the imported components are indispensable to the structure of the final product and include the most important constituent materials in relation to the use of the goods. Thus, when presented together, the body sleeve and the remaining imported components are classified as an unfinished sports bag of heading 4202, HTSUSA.

In another scenario, the body sleeve and the remaining components are imported in separate shipments. In Headquarters Ruling Letter (HQ) 085391, dated December 20, 1989, we determined that a golf bag body did not possess the essential character of the finished article when imported individually. Accordingly, it was classified according to its constituent materials. Similarly, in HQ 959178, dated June 24, 1996, we held that a golf bag body imported separately from its remaining components was classifiable according to its constituent materials in heading 6307. As the instant body sleeve is substantially similar to the goods at issue in HQ 959178, we conclude that it is classifiable in heading 6307, HTSUSA, which is the residual provision for articles of textiles. In addition, we find that the remaining components, when imported without the body sleeve, do not possess the essential character of the finished article. Therefore, they shall also be classified according to their constituent materials. The organizer top assembly, sling, top boot, clip, hoods and bottom boot are classifiable under subheading 6307.90.9989, HTSUSA. The D-ring is classifiable under subheading 7326.90.8585, HTSUSA.

COUNTRY OF ORIGIN MARKING

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. §1304), provides that unless excepted, every article of foreign origin imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Part 134, Customs Regulations (19 C.F.R. Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. §1304.

Section 134.1(d), Customs Regulations (19 C.F.R. §134.1(d)), provides that the “ultimate purchaser” is generally the last person in the U.S. who will receive the article in the form in which it was imported. If an imported article will be used in manufacture, the manufacturer may be the ultimate purchaser if he subjects the imported article to a process which results in a substantial transformation of the article. In that situation, the manufactured article, as a good of the U.S., is excepted from country of origin marking and only the outermost container of the imported article must be marked with the article’s origin. See section 134.35(a), Customs Regulations (19 C.F.R. §134.35(a)).

Under the facts presented in your letter, China is the country of origin of all of the components entered into the United States as they are wholly produced in China (made in China from Chinese components). To determine whether the Chinese-origin golf bag components in the two scenarios in this case become goods of the U.S. when assembled to create finished golf bags, it is necessary to refer to the rules of origin for textile and apparel products set forth in section 102.21, Customs Regulations (19 C.F.R. §102.21). Pursuant to the Uruguay Round Agreements Act, these new rules of origin (published in the Federal Register on September 5, 1995, 60 Fed. Reg. 46188) became effective for textile or apparel products entered, or withdrawn from warehouse for consumption, on or after July 1, 1996. The country of origin of a textile or apparel product is determined by a hierarchy of rules set forth in paragraphs (c)(1) through (c)(5) of section 102.21.

A “textile or apparel product” for purposes of these rules of origin is defined in 19 C.F.R. §102.21(b)(5) as any good classifiable in Chapters 50 through 63, HTSUSA, as well as goods classifiable in certain additional provisions, including subheading 4202.92.30, HTSUSA. Therefore, the 19 C.F.R. §102.21 rules of origin are applicable to the imported articles subject to this case.

Section 102.21(c)(1) sets forth the general rule for determining the country of origin of a textile or apparel product in which the good is wholly obtained or produced in a single country, territory, or insular possession.

Section 102.21(c)(1) is not applicable because the subject merchandise is not wholly obtained or produced in a single country, territory, or insular possession. Accordingly, we turn to Section 102.21(c)(2) which provides that where the country of origin cannot be determined under paragraph (c)(1), the country of origin of the good is the single country in which each foreign material incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement specified for the good in 19 C.F.R.

§102.21(e). As discussed above, the finished golf bag under consideration here is classified in subheading 4202.92.3030, HTSUSA. Therefore, the applicable rule in 19 C.F.R. §102.21(e) is as follows:

4202.92.15–4202.92.30 A change to subheading 4202.92.15 through 4202.92.30 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory or insular possession.

In this case, the requisite tariff shift is not met because the assembly of the golf bag takes place in more than a single country (i.e., in China and the United States). Accordingly, we continue in our hierarchical application of Section 102.21(c).

Section 102.21(c)(3) governs instances where country of origin of a textile or apparel product cannot be determined pursuant to paragraphs (c)(1) or (c)(2) and provides:

(i) If the good was knit to shape, the country of origin of the good is the single country, territory, or insular possession in which the good was knit; or

(ii) Except for goods of heading 5609, 5807, 5811, 6213, 6214, 6301 through 6306, and 6308, and subheadings 6209.20.5040, 6307.10, 6307.90, and 9404.90, if the good was not knit to shape and the good was wholly assembled in a single country, territory, or insular possession, the country of origin of the good is the country, territory, or insular possession in which the good was wholly assembled.

Section 102.21(c)(3) is inapplicable in this case because the subject merchandise is neither knit to shape nor wholly assembled in a single country.

Section 102.21(c)(4) provides “Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1), (2) or (3) of this section, the country of origin of the good is the single country, territory, or insular possession in which the most important assembly or manufacturing process occurred.”

In HQ 959179, we held that the country of origin of a golf bag was where the golf bag body (including the hardware and zippers) was assembled. In a second country, the bottom, top cuff and internal tube support were assembled to complete the golf bag. The assembly operations in this case are substantially similar to HQ 959179. In China, the body sleeve (including zippers and hardware) is assembled and shipped to the United States along with the organizer top assembly, sling, top boot, clip, hoods, bottom boot and D-ring. In the U.S., the plastic bottom, poly tube body liner, rivets and a metal D-clip are assembled with the imported components to complete the golf bag. Accordingly, as in HQ 959178, the most important assembly operation in this case transpires in China, where the majority of the golf bag body is assembled to completion. Accordingly, the origin of the completed golf bag under both scenarios is China, and it must be individually marked to so indicate to the ultimate purchaser.

You asked by telephone whether the imported golf bag components must be individually marked with their origin or whether the container in which they are imported may be marked with the components’ origin. In this regard, section 134.32(d), Customs Regulations (19 C.F.R. §134.32(d)), exempts from the marking requirements those articles for which the container will reasonably indicate the origin of the articles. Therefore, provided the Chinese–origin golf bag components are imported in properly marked containers and the certification set forth in section 134.26, Customs Regulations (19 C.F.R. §134.26), is executed, the components are not required to be individually marked at the time of importation. However, the fully assembled golf bags must be individually marked to indicate to the ultimate purchaser that their origin is China.

Holding:

The imported Chinese-origin body sleeve and remaining components, when presented together, are classifiable under subheading 4202.92.3030, HTSUSA, which provides for travel, sports and similar bags: with outer surface of textile materials: other, other: of man-made fibers: other. They are dutiable at the general column one rate at 19 percent *ad valorem*. The textile category is 670.

When imported separately, the Chinese-origin body sleeve, organizer top assembly, sling, top boot, clip, hoods and bottom boot are classifiable under subheading 6307.90.9989, HTSUSA, which provides for other made up articles, including dress patterns: other: other: other: other. The applicable rate of duty is 7 percent *ad valorem*. The D-ring is classifiable under subheading 7326.90.8585, HTSUSA, and is dutiable at the general one column rate of 3.5 percent *ad valorem*.

As determined under 19 C.F.R. §102.21, the country of origin of the completed golf bag is China, and it must be marked accordingly.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are the subject of frequent negotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the Status Report on Current Import Quotas (Restraint Levels), an issuance of the U.S. Customs Service, which is updated weekly and is available at the local Customs office.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact the local Customs office prior to importing the merchandise to determine the current status of any import restraints or requirements.

The holding set forth above applies only to the specific factual situation and merchandise identified in the ruling request. This position is clearly set forth in 19 C.F.R. §177.9(b)(1), which states that each ruling letter is issued on the assumption that all of the information furnished and incorporated in the ruling letter, either directly, by reference, or by implication, is accurate and complete in every material respect.

Should it be subsequently determined that the information furnished is not complete and does not comply with 19 C.F.R. §177.9(b)(1), the ruling will be subject to modification or revocation. A change in the facts previously furnished may affect the determination of country of origin. Thus, if there is any change in the facts provided to Customs, it is recommended that a new ruling request be submitted in accordance with 19 C.F.R. §177.2.

JOHN DURANT,
Director,
Commercial Rulings Division.

[ATTACHMENT D]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR:CR:TE 965605 jsj
Category: Classification
Tariff No. 6307.90.9889,
4202.92.3031, and 3926.90.9880

MR. DAVID C. SOTO
V. ALEXANDER & Co., INC.
15 Century Boulevard
Suite 400
Nashville, TN 37214-3650

Re: Revocation of HQ 957006 (June 27, 1995); Golf Bag Components Imported Without Bottoms; Subheading 6307.90.9889, HTSUSA; HQ 964538 (Nov. 19, 2001) Incorporated by Reference.

DEAR MR. SOTO:

The purpose of this correspondence is to advise you that the Customs Service has reconsidered Headquarters Ruling Letter (HQ) 957006 (June 27, 1995) issued to you on the behalf of Datrek Professional Bags, Inc.

Headquarters Ruling Letter 957006 classified golf bag components imported without bottoms and composed of fabric of man-made textile fibers in subheading 4202.92.3031, HTSUSA. The Customs Service has reviewed HQ 957006 and determined that it is erroneous. Customs is revoking HQ 957006 and reclassifying the golf bag components in subheading 6307.90.9889, HTSUSA.

Facts:

The merchandise in issue, as set forth in HQ 957006, is components of golf bags. The components include: (1) A golf bag body sleeve, open and unsewn on both the top and bottom; (2) A "Rain Hood" cover; (3) A "top collar" constructed of polyethylene plastic cov-

ered with a man-made textile material; (4) A “bottom collar” constructed of polyethylene plastic covered with a man-made textile material; (5) A padded shoulder strap; (6) Three woven nylon strips to be sewn to the outside of the bag; and (7) A cut-to-shape piece of vinyl with “Alegis” stamped onto it, to be sewn onto the top collar.

The golf bag body sleeve, hood, shoulder strap and all of the other textile components are composed of textile fabric of man-made fibers (nylon). The nylon has a polyvinyl chloride plastic backing and a polyvinyl chloride coating. The body sleeve has three zippered compartments and three pockets. The body sleeve, hood and shoulder strap have metal snaps and rivets, and plastic clips.

The top collar and bottom collar are made of polyethylene plastic and are covered with nylon and vinyl, respectively. The top collar is twenty-six and one-half (26½) inches in length and four and one-half (4½) inches in width. The top collar tapers in the center. The bottom collar is twenty-four and one-half (24½) inches in length and two and one-half (2½) inches in width.

The Customs Service specifically emphasizes the fact that the merchandise will be imported into the United States without a bottom. Customs has been advised that the merchandise will also be imported without a bag frame and an acrylic fur inner bag lining.

Issue:

What is the classification, pursuant to the Harmonized Tariff Schedule of the United States Annotated, of the body sleeve, rain cover, polyethylene plastic top collar covered with a man-made textile material, the polyethylene plastic bottom collar covered with vinyl, the padded shoulder strap, the three woven nylon strips, and the cut-to-shape piece of vinyl with “Alegis” stamped onto it, when imported into the United States without a bottom?

Law and Analysis:

Classification of the Body Sleeve, Rain Cover, Shoulder Strap and Three Woven Strips

The Customs Service in Headquarters Ruling Letter 964538 (Nov. 19, 2001) classified merchandise substantially similar to the golf bag body sleeve, rain cover or hood, shoulder strap and three woven strips in subheading 6307.90.9989, HTSUSA. Subheading 6307.90.9989, HTSUSA, effective January of 2002, is enumerated as subheading 6307.90.9889, HTSUSA. Subheading 6307.90.9889, HTSUSA, provides for:

6307	Other made up articles, including dress patterns:
6307.90	Other:
	Other:
6307.90.98	Other,
	Other:
6307.90.9889	Other.

The golf bag components composed of textile fabric of man-made fibers identified as the body sleeve, rain cover or hood, shoulder strap and three woven strips, imported by Datrek, are individually classified in subheading 6307.90.9889, HTSUSA. The legal reasoning and analysis employed in HQ 964538 is incorporated into this ruling letter by reference. Headquarters Ruling Letter 964538 is attached to and made a part of this ruling letter.

Should the body sleeve, rain cover or hood, shoulder strap and three woven strips addressed above be imported together with a bottom, either in the same or separate containers, but in the same shipment for Customs purposes, all of the merchandise would be classified pursuant to GRI 2(a) as unfinished sports bags. Complete or finished golf bags, as well as incomplete, unfinished, unassembled or disassembled golf bags, with outer surfaces of man-made textile materials, are classified in heading 4202, HTSUSA, pursuant to GRI 2(a). They are classified at the subheading level in subheading 4202.92.3031, HTSUSA. Subheading 4202.92.3031, HTSUSA, provides, in part, for sports bags with an outer surface of textile materials of man-made fibers.

The Customs Service notes that this ruling is consistent with a long-line of decisions extending from Internal Advice request HQ 085391 (Dec. 20, 1989). The rulings include: HQ 960883 (April 27, 1998); HQ 962313 (Mar. 4, 1999); HQ 964538 (Nov. 19, 2001); HQ 965041 (May 7, 2001); HQ 964902 (May 9, 2002) and HQ 965017 (May 9, 2002).

Classification of the Polyethylene Plastic Top Collar Covered and Sewn Over With Nylon Fabric

The plastic top collar covered and sewn over with nylon fabric is a composite good composed of different materials classified pursuant to GRI 3 (b). The components are *prima*

facie classifiable in heading 3926, HTSUSA, as other articles of plastic, and in heading 6307, HTSUSA, as other made up articles. The plastic and textile components “are attached to each other to form a practically inseparable whole.” See *General Rules for the Interpretation of the Harmonized System, Rule 3 (b), Explanatory Note (IX)*. The plastic component provides the collar with its predominate value, weight and bulk, and, thereby, gives the collar its essential character.

Completing the classification of the plastic top collar, the article is classified in subheading 3926.90.9880, HTSUSA. Subheading 3926.90.9880, HTSUSA, provides for:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other,
3926.90.9880	Other.

Classification of the Polyethylene Plastic Bottom Collar Covered and Sewn Over With Polyvinyl Chloride and the Cut-To-Shape Piece of Vinyl

The plastic bottom collar covered and sewn over with polyvinyl chloride and the cut-to-shape piece of vinyl are classified pursuant to GRI 1 in subheading 3926.90.9880, HTSUSA.

Holding:

Headquarters Ruling Letter 957006 (June 27, 1995) is, hereby, revoked.

Classification of the Body Sleeve, Rain Cover, Shoulder Strap And Three Woven Strips Imported Without a Bottom

The Datrek Professional Bags, Inc. textile golf bag components, the golf bag body sleeve, rain hood or cover, shoulder strap and three woven strips, when imported into the United States without a bottom, are classified in subheading 6307.90.9889, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty for subheading 6307.90.9889, HTSUSA, is seven (7) percent, *ad valorem*.

The legal reasoning and analysis employed in HQ 964538 (Nov. 19, 2001) is incorporated by reference. Headquarters Ruling Letter 964538 is attached to and made a part of this ruling letter.

Classification of the Body Sleeve, Rain Cover, Shoulder Strap and Three Woven Strips Imported With a Bottom

If the golf bag components composed of fabric of man-made textile fibers, the golf bag body sleeve, rain hood or cover, shoulder strap and three woven strips, are imported with a bottom, as part of a single shipment for Customs purposes, they would be classified in subheading 4202.92.3031, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty for subheading 4202.92.3031, HTSUSA, is eighteen and one-tenth (18.1) percent *ad valorem*.

The textile quota category for merchandise classified in subheading 4202.92.3031, HTSUSA, is category 670.

There are no applicable quota/visa requirements for products of World Trade Organization (WTO) member-countries. The textile category number above applies to merchandise produced in non-WTO member-countries.

The designated textile and apparel category may be subdivided into parts. If subdivided, any quota and visa requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent negotiations and changes, to obtain the most current information available, we suggest you check, close to the time of shipment, the *Status Report On Current Import Quotas (Restraint Levels)* an internal issuance of the U.S. Customs Service which is updated weekly and is available for inspection at your local Customs Service office. The *Status Report On Current Import Quotas (Restraint Levels)* is also available on the Customs Electronic Bulletin Board (CEBB) which can be found on the U.S. Customs Web site at www.customs.gov.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact your local Customs office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

Classification of the Polyethylene Plastic Top Collar Covered and Sewn Over With Nylon Fabric and The Cut-To-Shape Piece of Vinyl

The polyethylene plastic top collar covered and sewn over with nylon fabric and the cut-to-shape piece of vinyl are classified in subheading 3926.90.9880, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty for subheading 3926.90.9880, HTSUSA, is five and three-tenths (5.3) percent *ad valorem*.

Classification of the Polyethylene Plastic Bottom Collar Covered and Sewn Over With Polyvinyl Chloride

The polyethylene plastic bottom collar covered and sewn over with polyvinyl chloride is classified in subheading 3926.90.9880, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty for subheading 3926.90.9880, HTSUSA, is five and three-tenths (5.3) percent, *ad valorem*.

MYLES B. HARMON,
Acting Director,
Commercial Rulings Division.

[ATTACHMENT E]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.
CLA-2 RR:CR:TE 965604 jsj
Category: Classification
Tariff No. 6307.90.9889 and 4202.92.3031

MR. CHRISTOPHER G. STAFF, JR.
C.G. STAFF COMPANIES
2369 So. 200th Street
Seattle, WA 98198

Re: Revocation of HQ 958915 (Feb. 27, 1996); Golf Bag Components Imported Without Bottoms; Subheading 6307.90.9889, HTSUSA; HQ 964538 (Nov. 19, 2001) Incorporated by Reference.

DEAR MR. STAFF:

The purpose of this correspondence is to advise you that the Customs Service has reconsidered Headquarters Ruling Letter (HQ) 958915 (Feb. 27, 1996) issued to you on the behalf of Sundara Industries, Ltd.

Headquarters Ruling Letter 958915 classified golf bag components imported without bottoms and composed of fabric of man-made textile fibers in subheading 4202.92.3031, HTSUSA. The Customs Service has reviewed HQ 958915 and determined that it is erroneous. Customs is revoking HQ 958915 and reclassifying the golf bag components in subheading 6307.90.9889, HTSUSA.

Facts:

The merchandise in issue, as set forth in HQ 958915, is components of golf bags. The components include: (1) A golf bag body sleeve; (2) A top hood/cover; and (3) A padded shoulder strap. The body sleeve has pockets and compartments. The body sleeve, hood and shoulder strap are all composed entirely of fabric of man-made textile fibers.

The Customs Service specifically emphasizes the fact that the merchandise, particularly the body sleeve, will be imported into the United States without a bottom. Customs has been advised that the merchandise will also be imported without support rods or a top collar.

Issue:

What is the classification, pursuant to the Harmonized Tariff Schedule of the United States Annotated, of the body sleeve, hood and shoulder strap, composed entirely of man-made textile fibers, when imported into the United States without a bottom?

Law and Analysis

The Customs Service in Headquarters Ruling Letter 964538 (Nov. 19, 2001) classified merchandise substantially similar to the golf bag body sleeve, hood and shoulder strap in subheading 6307.90.9989, HTSUSA. Subheading 6307.90.9989, HTSUSA, effective January of 2002, is enumerated as subheading 6307.90.9889, HTSUSA. Subheading 6307.90.9889, HTSUSA, provides for:

6307	Other made up articles, including dress patterns:
6307.90	Other:
	Other:
6307.90.98	Other,
	Other:
6307.90.9889	Other.

The golf bag components imported without bottoms and composed of fabric of man-made textile fibers identified in the FACTS section of this ruling letter are individually classified in subheading 6307.90.9889, HTSUSA. The legal reasoning and analysis employed in HQ 964538 is incorporated into this ruling letter by reference. Headquarters Ruling Letter 964538 is attached to and made a part of this ruling letter.

Should the golf bag components addressed above be imported together with a bottom, either in the same or separate containers, but in the same shipment for Customs purposes, all of the merchandise would be classified pursuant to GRI 2(a) as unfinished sports bags. Complete or finished golf bags, as well as incomplete, unfinished, unassembled or disassembled golf bags, with outer surfaces of fabric of man-made textile materials, are classified in heading 4202, HTSUSA, pursuant to GRI 2(a). They are classified at the subheading level in subheading 4202.92.3031, HTSUSA. Subheading 4202.92.3031, HTSUSA, provides, in part, for sports bags with an outer surface of textile materials of man-made fibers.

The Customs Service notes that this ruling is consistent with a long-line of decisions extending from Internal Advice request HQ 085391 (Dec. 20, 1989). The rulings include: HQ 960883 (April 27, 1998); HQ 962313 (Mar. 4, 1999); HQ 964538 (Nov. 19, 2001); HQ 965041 (May 7, 2001); HQ 964902 (May 9, 2002) and HQ 965017 (May 9, 2002).

 Holding:

Headquarters Ruling Letter 958915 (Feb. 27, 1996) is, hereby, revoked.

The Sundara Industries, Ltd. golf bag components composed of man-made textile fibers, the golf bag body sleeve, top hood/cover and shoulder strap, when imported into the United States without a bottom, are individually classified in subheading 6307.90.9889, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty for subheading 6307.90.9889, HTSUSA, is seven (7) percent *ad valorem*.

The legal reasoning and analysis employed in HQ 964538 (Nov. 19, 2001) is incorporated by reference. Headquarters Ruling Letter 964538 is attached to and made a part of this ruling letter.

If the golf bag components composed of fabric of man-made textile fibers are imported with a bottom, as part of a single shipment for Customs purposes, they would be classified in subheading 4202.92.3031, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty of subheading 4202.92.3031, HTSUSA, is eighteen and one-tenth (18.1) percent *ad valorem*.

The textile quota category for merchandise classified in subheading 4202.92.3031, HTSUSA, is category 670.

There are no applicable quota/visa requirements for products of World Trade Organization (WTO) member-countries. The textile category number above applies to merchandise produced in non-WTO member-countries.

The designated textile and apparel category may be subdivided into parts. If subdivided, any quota and visa requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent negotiations and changes, to obtain the most current information available, we suggest you check, close to the time of shipment, the *Status Report On Current Import Quotas (Restraint Levels)* an internal issuance of the U.S. Customs Service which is updated weekly and is available for inspection at your local Customs Service office. The *Status Report On Current Import Quotas (Restraint Levels)* is also available on the Cus-

toms Electronic Bulletin Board (CEBB) which can be found on the U.S. Customs Web site at www.customs.gov.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact your local Customs office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

MYLES B. HARMON,
Acting Director,
Commercial Rulings Division.

[ATTACHMENT F]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.
CLA-2 RR:CR:TE 965603 jsj
Category: Classification
Tariff No. 6307.90.9889 and 4202.92.3031

MR. EDWARD L. HART, JR.
V. ALEXANDER & CO., INC.
IMPORT MANAGER
P.O. Box 30250
Memphis, TN 38130-0250

Re: Modification of HQ 961056 (Feb. 11, 1998); Golf Bag Components Imported Without a Bottom; Subheading 6307.90.9889, HTSUSA; HQ 964538 (Nov. 19, 2001) Incorporated by Reference.

DEAR MR. HART:

The purpose of this correspondence is to advise you that the Customs Service has reconsidered Headquarters Ruling Letter (HQ) 961056 (Feb. 11, 1998) issued to you on the behalf of Arnold Palmer Golf Company.

Headquarters Ruling Letter 961056 classified golf bag components imported without bottoms and composed of fabric of man-made textile fibers in subheading 4202.92.3031, HTSUSA. The Customs Service has reviewed HQ 961056 and determined that it is incorrect as it relates to the classification of the golf bag components imported without bottoms and composed of fabric of man-made textile fibers. Customs is modifying HQ 961056 and revoking that aspect of the ruling letter addressing the classification of the golf bag components composed of fabric of man-made textile fibers. The merchandise in issue will be reclassified in subheading 6307.90.9889, HTSUSA.

The aspects of HQ 961056 that address the country of origin and the classification of the "D" rings are not being revoked or modified and will remain in effect.

Facts:

The merchandise in issue, as set forth in HQ 961056, is components of golf bags. The components include: (1) A nylon body sleeve; (2) An organizer top assembly; (3) A sling; (4) A top boot; (5) Clips; (6) A hood; (7) A bottom boot; and (8) A metal "D" ring.

It is noted that the above-referenced components will be assembled in the United States with components of United States origin. The components of U.S. origin include: (1) A plastic bottom; (2) A polyvinyl chloride tube body liner; (3) Rivets; and (4) A metal "D" clip.

The Customs Service specifically emphasizes the fact that the merchandise will be imported into the United States without a bottom.

Issue:

What is the classification, pursuant to the Harmonized Tariff Schedule of the United States Annotated, of the body sleeve, sling and hood composed of fabric of man-made textile fibers, when imported into the United States without the plastic bottom?

Law and Analysis:

The Customs Service in Headquarters Ruling Letter 964538 (Nov. 19, 2001) classified merchandise substantially similar to the body sleeve, sling and hood in subheading 6307.90.9989, HTSUSA. Subheading 6307.90.9989, HTSUSA, effective January of 2002, is enumerated as subheading 6307.90.9889, HTSUSA. Subheading 6307.90.9889, HTSUSA, provides for:

6307	Other made up articles, including dress patterns:
6307.90	Other:
	Other:
6307.90.98	Other,
	Other:
6307.90.9889	Other.

The golf bag components composed of fabric of man-made textile fibers identified in the FACTS section of this ruling letter, imported by Arnold Palmer Golf Company, are individually classified in subheading 6307.90.9889, HTSUSA. The legal reasoning and analysis employed in HQ 964538 is incorporated into this ruling letter by reference. Headquarters Ruling Letter 964538 is attached to and made a part of this ruling letter.

Should the golf bag components addressed above be imported together with a bottom, either in the same or separate containers, but in the same shipment for Customs purposes, all of the merchandise would be classified pursuant to GRI 2(a) as unfinished sports bags. Complete or finished golf bags, as well as incomplete, unfinished, unassembled or disassembled golf bags with outer surfaces of fabric of man-made textile materials are classified in heading 4202, HTSUSA, pursuant to GRI 2(a). They are classified at the subheading level in subheading 4202.92.3031, HTSUSA. Subheading 4202.92.3031, HTSUSA, provides, in part, for sports bags with an outer surface of textile materials of man-made fibers.

The Customs Service notes that this ruling is consistent with a long-line of decisions extending from Internal Advice request HQ 085391 (Dec. 20, 1989). The rulings include: HQ 960883 (April 27, 1998); HQ 962313 (Mar. 4, 1999); HQ 964538 (Nov. 19, 2001); HQ 965041 (May 7, 2001); HQ 964902 (May 9, 2002) and HQ 965017 (May 9, 2002).

Holding:

Headquarters Ruling Letter 961056 (Feb. 11, (1998) is, hereby, modified.

The Arnold Palmer Golf Company golf bag components, consisting of the body sleeve, sling and hood, composed of man-made textile fibers, when imported into the United States without the plastic bottom, are classified in subheading 6307.90.9889, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty for subheading 6307.90.9889, HTSUSA, is seven (7) percent *ad valorem*.

The legal reasoning and analysis employed in HQ 964538 (Nov. 19, 2001) is incorporated by reference. Headquarters Ruling Letter 964538 is attached to and made a part of this ruling letter.

If the golf bag components composed of fabric of man-made textile fibers are imported with a bottom, as part of a single shipment for Customs purposes, they would be classified in subheading 4202.92.3031, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty of subheading 4202.92.3031, HTSUSA, is eighteen and one-tenth (18.1) percent *ad valorem*.

The textile quota category for merchandise classified in subheading 4202.92.3031, HTSUSA, is category 670.

There are no applicable quota/visa requirements for products of World Trade Organization (WTO) member-countries. The textile category number above applies to merchandise produced in non-WTO member-countries.

The designated textile and apparel category may be subdivided into parts. If subdivided, any quota and visa requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent negotiations and changes, to obtain the most current information available, we suggest you check, close to the time of shipment, the *Status Report On Current Import Quotas (Restraint Levels)* an internal issuance of the U.S. Customs Service which is updated weekly and is available for inspection at your local Customs Service office. The *Status Report On Current Import Quotas (Restraint Levels)* is also available on the Cus-

toms Electronic Bulletin Board (CEBB) which can be found on the U.S. Customs Web site at www.customs.gov.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact your local Customs office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

MYLES B. HARMON,
Acting Director,
Commercial Rulings Division.

[ATTACHMENT G]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, November 19, 2001.
CLA-2 RR:CR:TE 964538 jsj
Category: Classification
Tariff No. 6307.90.9989 and 4202.93.3031

MS. LAURA HAGER
ABX LOGISTICS
Import/Department
714 S. Isis Avenue
Suite A
Inglewood, CA 90301

Re: Golf Bag Parts; Subheadings 6307.90.9989 and 4202.92.3031, HTSUSA; Separate shipments.

DEAR MS. HAGER:

The purpose of this correspondence is to respond to your request on the behalf of Ergonomix Sport, Inc. for a binding classification ruling of the merchandise described as a "flat golf bag" and "related parts."

This ruling is being issued subsequent to the following: (1) A review of your submission received by the Customs Service on July 27, 2000; (2) A review of the correspondence of Mr. Stephen J. Perrin, President of Ergonomix Sport, dated July 7, 2000; and (3) An examination of the samples.

The Customs Service is advised by ABX Logistics that all of the textile fabric is made in Taiwan and that the textile components of the golf bag are sewn in China Final assembly of the golf bags, which will include the attachment of a plastic top, plastic bottom, plastic flap and a stand, will be undertaken in the United States.

Customs has been advised that the textile aspects of the "flat golf bag" will be "arriving in separate container[s]" from the plastic and other components. *Ergonomix Sport Correspondence* (July 7, 2000). The Customs Service, for the purposes of this ruling, understands the importer's statement to mean that the articles will be imported in separate shipments. If the textile components and the plastic and other components are shipped in separate containers, but arrive in *the* same shipment, the classification ruling provided in this letter would be different.¹

Facts:

The sample article in issue, identified as a "flat golf bag," is the body of a golf bag made of man-made textile material. The "flat golf bag" lacks a plastic top, plastic bottom, plastic flap and a stand, all of which will be a part of and accompany a finished golf bag. The "flat golf bag," as assembled at the time of importation, is entirely sewn, including all pockets, zippers, "D" rings, handles, "O" rings, snaps, as well as all other aspects of the golf bag panel.

¹ See *infra*. note 4.

The other samples, the “related parts,” as described by the importer, include: a rain/travel hood, a shoulder strap, a full-length middle divider, fur padding F/dividers, hook and loop fastener material and webbing material. The rain/travel hood is composed of a man-made textile material coated or covered on the interior with plastic. It has metal snaps on the bottom and a center zipper. The shoulder strap is composed of man-made textile material and is designed to carry the completed golf bag on both of the golfer’s shoulders. It has plastic clips that enable the straps to be adjusted.

The remaining “related parts” are composed of man-made textile material and have plastic and/or hook and loop fasteners. The full-length textile middle divider is tubular-shaped, has a plastic base attached with elastic straps, and hook and loop fasteners at the top. The other parts include a circular length of man-made textile material with individual flaps of loop fasteners, a thirty-six (36) inch length of hook fastener material measuring one inch wide and two approximately four inch by four inch squares composed of man-made textile material with one inch tongues, each with strips of hook and loop fastener material.

Issues:

What is the classification, pursuant to the Harmonized Tariff Schedule of the United States Annotated, of the above-described “flat golf bag” and “related parts” when imported in shipments separate from the plastic top, plastic bottom, plastic flap and the stand?

Law and Analysis:

The federal agency responsible for initially interpreting and applying the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is the U.S. Customs Service.² The Customs Service, in accordance with its legislative mandate, classifies imported merchandise pursuant to the General Rules of Interpretation (GRI) and the Additional U.S. Rules of Interpretation.³

General Rule of Interpretation 1 provides, in part, that classification decisions are to be “determined according to the terms of the headings and any relative section or chapter notes.” *General Rule of Interpretation 1*. General Rule of Interpretation 1 further states that merchandise which can not be classified in accordance with the dictates of GRI 1 should be classified pursuant to the other General Rules of Interpretation, provided the HTSUSA chapter headings or notes do not require otherwise. According to the Explanatory Notes (EN), the phrase in GRI 1, “provided such headings or notes do not otherwise require,” is intended to “make it quite clear that the terms of the headings and any relative Section or Chapter Notes are paramount.” *General Rules for the Interpretation of the Harmonized System, Rule 1, Explanatory Note (V)*.

The Explanatory Notes constitute the official interpretation of the Harmonized System at the international level. See Joint Explanatory Statement *supra* note 2, at 549. The Explanatory Notes, although neither legally binding nor dispositive of classification issues, do provide commentary on the scope of each heading of the HTSUS. The EN’s are generally indicative of the proper interpretation of the headings. See T.D. 89–80, 54 Fed. Reg. 35127–28 (Aug. 23, 1989); *Lonza, Inc. v. United States*, 46 F.3d 1098, 1109 (Fed. Cir. 1995).

Commencing classification of the articles that comprise the “flat golf bag” and the “related parts” in accordance with the dictates of GRI 1, the Customs Service examined the headings of the HTSUSA. Customs review of the headings of the HTSUSA did not establish any heading that described all of the merchandise in issue when considered as a single item.

Customs specifically notes that the merchandise will not be imported in completed condition. Customs further notes, for the purposes of this ruling, that the “flat golf bag” and “related parts” will be imported in shipments separate from the plastic top, plastic bot-

² See 19 U.S.C. 1500 (West 1999) (providing that the Customs Service is responsible for fixing the final appraisement, classification and amount of duty to be paid); See also Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 100–576, at 549 (1988) *reprinted in* 1988 U.S. Code Cong. and Adm. News 1547, 1582 (hereinafter joint Explanatory Statement).

³ See 19 U.S.C. 1202 (West 1999); See generally, *What Every Member of The Trade Community Should Know About: Tariff Classification*, an Informed Compliance Publication of the Customs Service available on the World Wide Web site of the Customs Service at www.customs.gov, search “Importing & Exporting” and then “U.S. Customs Informed Compliance Publications.”

tom, plastic flap and the stand.⁴ Customs, absent a provision in the tariff schedule to the contrary, is required to classify merchandise in the condition in which it is imported. See *Sarne Handbags Corp. v. United States*, 100 F. Supp. 1126, (C.I.T. 2000); *Heartland By-Products, Inc. v. United States*, 74 F. Supp. 1324, 1341 (C.I.T. 1999) citing *Worthington v. Robbins*, 139 U.S. 337, 341 (1891). If the “flat golf bag” and the “related parts” were to be shipped in separate containers, but arrived together on the same ship, the classification would be different.⁵

The Customs Service, having determined that all of the articles under consideration in this ruling letter cannot cumulatively, as a single item, be classified pursuant to GRI 1, examined GRI 2. General Rule of Interpretation 2 is divided into two subparagraphs, GRI 2 (a) and GRI 2 (b). General Rule of Interpretation 2 (a) provides that any reference in an HTSUSA heading to an article “shall be taken to include a reference to that article incomplete or unfinished.” GRI 2 (a) requires, however, that the incomplete or unfinished article have the “essential character” of the complete or finished article.

The issue to be addressed is whether the “flat golf bag” and the “related parts” to be imported by Ergonomix Sport have the “essential character” of completed or finished products and should, therefore, be classified pursuant to GRI 2(a) as if they were goods in their completed or finished state. The General Rules of Interpretation do not define the phrase “essential character.” Its meaning may, however, be understood from an examination of the Explanatory Notes to GRI 2 (a).

The EN’s to GRI 2 (a) draw a distinction between a “blank” which possesses the essential character of an article and a “semi-manufacture[d]” item that does not have the essential character of an article. A “blank,” as defined in the EN, is an article “not ready for direct use, having the approximate shape or outline of the finished article or part.” The EN continues stating that a “blank” is an article “which can only be used, other than in exceptional cases, for completion into the finished article or part.”

A plastic bottle preform is offered in the EN as an example of a blank. Bottle preforms of plastic are “intermediate products having tubular shape, with one closed end and one open end threaded to secure a screw type closure, the portion below the threaded end being intended to be expanded to a desired size and shape.”

“Semi-manufactures” are items that do not yet have the essential shape or character of the finished articles. Examples of semi-manufactures set forth in the EN’s are: “bars, discs, tubes, etc.” Semi-manufactures are specifically not regarded as “blanks.”

An examination of the instant “flat golf bag” and “related parts,” in the condition in which they will be imported, reveals semi-manufactured items rather than blanks. The articles do not have the essential character of a sports bag.

Completed golf bags are classified in heading 4202, HTSUSA. Heading 4202, HTSUS, provides for the classification of:

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, 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. (Emphasis added.)

Additional U.S. Note I of Chapter 42 provides a definition for the phrase “sports bags.” The expression “travel, sports and similar bags” means “goods * * * 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.” *Chapter 42, HTSUSA, Additional U.S. Note 1.*

An examination of the instant “flat golf bag” and “related parts,” in the condition in which they will be imported, reveals articles that do not yet have the essential character of goods of a kind designed for carrying clothing and other personal effects during travel.

⁴ See *Altman & Co. v. United States*, 13 Ct. Cust. Appls. 315 (1925) (providing that separately packaged parts of the same merchandise arriving on the same shipment should be considered a single entry and classified together); See also *James G. Wiley v. United States*, 56 Cust. Ct. 331 (1966) (providing that arrival of different aircraft constitute both physically and commercially separate importations, and that entries of merchandise from different vessels could not be merged for the purposes of appraisement or classification).

⁵ See *id.* *Altman & Co.*

The articles specifically lack the capability to function as a container. Since they do not have the essential character of “sports bags” of heading 4202, HTSUSA, the Customs Service cannot classify them as GRI 2(a) incomplete or unfinished articles.

The “flat golf bag” and the “related parts” are individually classified pursuant to GRI 1 in heading 6307, HTSUSA. The articles are further classified in subheading 6307.90.9989, HTSUSA. Subheading 6307.90.9989, HTSUSA, provides for:

6307	Other made up articles, including dress patterns:
6307.90	Other:
	Other:
6307.90.98	Other,
	Other:
6307.90.9889	Other.

Should the “flat golf bags” and the “related parts” be imported together with the plastic top, plastic bottom, plastic flap and the stand, either in the same or separate containers, but in the same shipment, all of the merchandise would be classified pursuant to GRI 2(a) as unassembled sports bags. Complete or finished golf bags with outer surfaces of man-made textile materials are classified in heading 4202, HTSUSA, and are further classified at the subheading level in subheading 4202.92.3031, HTSUSA. Subheading 4202.92.3031, HTSUSA, provides for the classification of sports bags with an outer surface of textile materials of man-made fibers.

Holding:

The “flat golf bag” and the “related parts” when imported in shipments separate from the plastic top, plastic bottom, plastic flap and the stand are classified in subheading 6307.90.9989, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty for subheading 6307.90.9989, HTSUSA, is seven (7) percent, *ad valorem*.

If the “flat golf bag” and the “related parts” are imported with the plastic top, plastic bottom, plastic flap and the stand in separate containers, but as part of a single shipment for Customs purposes, they would be classified in subheading 4202.92.3031, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty of subheading 4202.92.3031, HTSUSA, is eighteen and three-tenths (18.3) percent, *ad valorem*.

The textile quota category for merchandise classified in subheading 4202.92.3031, HTSUSA, is category 670.

It is recommended that Ergonomix Sport contact its local Customs Service office prior to the importation of this merchandise to determine the current status of any restraints or requirements due to the changeable nature of the statistical annotation, the ninth and tenth digits of the HTSUSA, and the restraint (quota/visa) categories applicable to textile merchandise.

The designated textile and apparel category may be subdivided into parts. If subdivided, the quota and visa requirements applicable to the merchandise may be affected. It is recommended that Ergonomix Sport review, close to the time of shipment, the *Status Report On Current Import quotas (Restraint Levels)*, since part categories are the result of international bilateral agreements and subject to frequent change. The Status Report is an internal issuance of the U.S. Customs Service and is available for inspection at local Customs Service offices.

JOHN ELKINS,
(for John Durant, Director,
Commercial Rulings Division.)