

Bureau of Customs and Border Protection

General Notices

Notice of Cancellation of Customs Broker National Permit

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security

ACTION: General Notice

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker national permits are canceled without prejudice.

| <u>Port</u> | <u>Permit No.</u> | <u>Name</u> |
|---------------|-------------------|-------------------------------------|
| Savannah | 99-00012 | D.J. Powers Company, Inc. |
| New York | 99-00017 | Freight Brokers International, Inc. |
| Minneapolis | 99-00024 | Lynx International, Inc. |
| Cleveland | 99-00033 | AW Fenton Company, Inc. |
| Champlain | 99-00041 | Trans-Border Customs Services, Inc. |
| Cleveland | 99-00068 | UPS Customhouse Brokerage, Inc. |
| Tampa | 99-00073 | Corie Louise Hall |
| El Paso | 99-00096 | Rudolph Miles & Sons, Inc. |
| New York | 99-00098 | Rennie B. Alston |
| Los Angeles | 99-00111 | Yamato Customs Brokers USA, Inc. |
| New York | 99-00118 | Kamden International Shipping, Inc. |
| Chicago | 99-00123 | Jay A. Mittleman |
| San Francisco | 99-00129 | Neill F. Stroth |
| Portland, OR | 99-00130 | Edward M. Jones & Company |
| Charlotte | 99-00142 | Drawback Central, Inc. |
| New York | 99-00146 | John P. O'Donoghue |
| St. Louis | 99-00149 | Katharine A. Lappin |
| Savannah | 99-00154 | Jack L. Brown |
| Savannah | 99-00155 | John S. James Company |
| Chicago | 99-00162 | Rotra Brokerage Services, Inc. |
| Cleveland | 99-00164 | Joseph Bonvissuto |
| Miami | 99-00172 | Sig M Glukstad, Inc. |
| Atlanta | 99-00180 | Allstates Customs Brokerage, Inc. |

| <u>Port</u> | <u>Permit No.</u> | <u>Name</u> |
|----------------|-------------------|--|
| Buffalo | 99-00196 | Ameri-Can Customshouse Brokers, Inc. |
| New York | 99-00212 | Maria DaRocha |
| Houston | 99-00217 | K & K Express, Inc. |
| Chicago | 99-00220 | Savino Del Bene, Inc. |
| Cleveland | 99-00232 | Maarten Intermodal Expeditors |
| New York | 99-00233 | Charles M. Shanley |
| New York | 99-00245 | Serko & Simon International Trade Services, Inc. |
| Norfolk | 99-00248 | Candice K. Blankenship |
| Norfolk | 99-00255 | C & W Transport & Customs Brokers, Inc. |
| Los Angeles | 99-00279 | Danache & Associates, Inc. |
| San Francisco | 99-00282 | Su Mei-hsia Sun |
| Savannah | 99-00285 | Page International, Inc. |
| Cleveland | 99-00298 | Computrex International Services, Inc. |
| San Francisco | 99-00313 | International Service Group, Inc. |
| Portland, OR | 99-00320 | Mary Sue McNary |
| Charlotte | 99-00328 | James L. Garst, III |
| Miami | 99-00338 | Customs Services International, Inc. |
| New York | 99-00369 | Michael Girsch |
| Houston | 99-00373 | Bill Potts and Company |
| New York | 99-00393 | Karl Schroff & Associates, Inc. |
| Philadelphia | 99-00403 | William J. O'Donnell |
| Chicago | 99-00404 | James F. Welton |
| Houston | 99-00418 | James F. Mooring |
| Portland, OR | 99-00419 | American Brokerage International, Inc. |
| El Paso | 99-00431 | Robert Brown |
| Charleston | 99-00438 | Stuart Logistics, Inc. |
| El Paso | 99-00441 | Grace Warner Fitzgerald |
| Milwaukee | 99-00455 | BM & P International, Inc. |
| Los Angeles | 99-00486 | William A. Flegenheimer |
| Miami | 99-00508 | Alberto A. Rodriguez |
| Los Angeles | 99-00532 | John Arthur Hanson |
| New York | 99-00538 | Viking Sea Freight, Inc. |
| Washington, DC | 99-00551 | GPS Custom House Brokerage, Inc. |
| Nogales | 99-00570 | Capin Brokerage, Inc. |
| Norfolk | 99-00571 | Limitless International, Inc. |
| Los Angeles | 99-00580 | Florence S. Hillman |
| Miami | 99-00581 | Karma Ellen Ruiz |
| Los Angeles | 99-00584 | FRT International, Inc. |
| Charlotte | 99-00588 | JKL Brokerage, Inc. |
| El Paso | 99-00596 | Brown, Alcantar & Brown, Inc. |

| <u>Port</u> | <u>Permit No.</u> | <u>Name</u> |
|-------------|-------------------|--|
| New York | 99-00598 | Maribel International Freight Forwarders, Inc. |
| Miami | 99-00601 | Savino Del Bene (Florida), Inc. |
| New York | 99-00607 | Raisa Kartashevsky |
| New York | 99-00616 | Pegasus Shipping, Inc. |
| Chicago | 99-00618 | Marshall Oh |
| New York | 99-00622 | Ana Link, Ltd. |
| New York | 99-00624 | JH Bachmann, Inc. |
| Atlanta | 99-00626 | Patricia Ann Sanders |
| El Paso | 99-00639 | Cordova Brokerage International, Inc. |
| New York | 99-00646 | Cavalier International Air Freight, Inc. |
| New York | 99-00653 | Coronet Brokers Corporation |
| Charleston | 99-00656 | SeaMac Shipping, Inc. |
| New York | 99-00666 | All-Ways Forwarding of N.Y., Inc. |
| New York | 99-00672 | All-Pack Express, Inc. |

DATED: April 26, 2004

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

[Published in the Federal Register, May 4, 2004 (69 FR 24654)]

Notice of Cancellation of Customs Broker Permit

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security

ACTION: General notice

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker local permits are canceled without prejudice.

| <u>Name</u> | <u>Permit #</u> | <u>Issuing Port</u> |
|---|-----------------|---------------------|
| Pamela C. Escarre | 20-02-AKH | New Orleans |
| UPS Customhouse Brokerage, Inc. | 07-97-955 | Champlain |
| GPS Customhouse Brokerage, Inc. | 52-03-W22 | Miami |
| Farias & Farias, Inc. | 53-03-DMO | Houston |
| AIT Custom Brokerage, Inc. | 20508 | Philadelphia |
| Pegasus International Customs Brokers, Inc. | 52-03-ATH | Miami |

| <u>Name</u> | <u>Permit #</u> | <u>Issuing Port</u> |
|-------------------------|-----------------|---------------------|
| Christian L. Bustamante | 52-03-ASE | Miami |
| Joseph G. Shill | 5201KX5 | Miami |

DATED: April 26, 2004

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

[Published in the Federal Register, May 4, 2004 (69 FR 24656)]

Notice of Cancellation of Customs Broker License

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security

ACTION: General Notice

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker licenses are canceled with prejudice.

| <u>Name</u> | <u>License #</u> | <u>Issuing Port</u> |
|----------------------------|------------------|---------------------|
| Virginia A. Miller | 05283 | Houston |
| Star Customs Brokers, Inc. | 13621 | San Francisco |
| Transport Specialists | 20191 | Washington, D.C. |
| Clasquin Laperriere Inc. | 20088 | Atlanta |

DATED: April 26, 2004

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

[Published in the Federal Register, May 4, 2004 (69 FR 24656)]

Retraction of Revocation Notice

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security

ACTION: General Notice

SUMMARY: The following Customs broker license was erroneously included in a list of revoked Customs broker licenses.

| Name | License | Port Name |
|-------------------|----------------|------------------|
| Lawrence J. Tobia | 12614 | New York |

Customs broker license No. 12614 remains valid.

DATED: April 26, 2004

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

[Published in the Federal Register, May 4, 2004 (69 FR 24656)]

PROPOSED COLLECTION; COMMENT REQUEST

Application for Exportation of Articles under Special Bond

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Exportation of Articles under Special Bond. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 6, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the

burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Application for Exportation of Articles under Special Bond

OMB Number: 1651-0004

Form Number: Form CBP-3495

Abstract: This collection is used by importers for articles entered temporarily into the United States. These articles are free of duty under bond, and are exported within one year from the date of importation.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 1500

Estimated Time Per Respondent: 8 minutes

Estimated Total Annual Burden Hours: 2,000

Estimated Total Annualized Cost on the Public: \$32,040.00

Dated: April 29, 2004

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Group.*

[Published in the Federal Register, May 5, 2004 (69 FR 25135)]

PROPOSED COLLECTION; COMMENT REQUEST

Articles Assembled Abroad with Textile Components Cut to Shape in the U.S.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Articles Assembled Abroad with Textile Components Cut to Shape in the U.S. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 6, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2C, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Articles Assembled Abroad with Textile Components Cut to Shape in the U.S.

OMB Number: 1651-0070

Form Number: N/A

Abstract: This collection of information enables CBP to ascertain whether the conditions and requirements relating to 9802.00.80, Harmonized Tariff Schedule (HTSUS), have been met.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 500

Estimated Time Per Respondent: 80 minutes

Estimated Total Annual Burden Hours: 667

Estimated Total Annualized Cost on the Public: \$11,785

Dated: April 29, 2004

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Group.*

[Published in the Federal Register, May 5, 2005 (69 FR 25135)]

PROPOSED COLLECTION; COMMENT REQUEST

Declaration by the Person Who Performed the Processing of Goods Abroad

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Declaration by the Person Who Performed the Processing of Goods Abroad. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 6, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2C, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the

burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Declaration by the Person Who Performed the Processing of Goods Abroad

OMB Number: 1651-0039

Form Number: N/A

Abstract: This declaration, which is prepared by the foreign processor and submitted by the filer with each entry, provides details on the processing performed abroad and is necessary to assist CBP in determining whether the declared value of the processing is accurate.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 7,500

Estimated Time Per Respondent: 15 minutes

Estimated Total Annual Burden Hours: 1,880

Estimated Total Annualized Cost on the Public: \$41,284.

Dated: April 29, 2004

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Group.*

[Published in the Federal Register, May 5, 2004 (69 FR 25136)]

PROPOSED COLLECTION; COMMENT REQUEST

Importation Bond Structure

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Importation Bond Structure. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 49 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before (INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER), to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2C, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Importation Bond Structure

OMB Number: 1651-0050

Form Number: CBP-301 and CBP-5297

Abstract: Bonds are used to assure that duties, taxes, charges, penalties, and reimbursable expenses owed to the Government are paid. They are also used to provide legal recourse for the Government for noncompliance with CBP laws and regulations.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 590,250

Estimated Time Per Respondent: 15 minutes

Estimated Total Annual Burden Hours: 147,563

Estimated Total Annualized Cost on the Public: \$4,283,777

Dated: April 29, 2004

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Group.*

[Published in the Federal Register, May 5, 2004 (69 FR 25138)]

PROPOSED COLLECTION; COMMENT REQUEST

Importation of Ethyl Alcohol For Non-Beverage Purpose

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Importation of Ethyl Alcohol for Non-Beverage Purpose. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 6, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Attn: Tracey Denning, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Importation of Ethyl Alcohol for Non-Beverage Purpose

OMB Number: 1651-0056

Form Number: N/A

Abstract: This collection is a declaration claiming duty-free entry. It is filed by the broker or their agent, and then is transferred with other documentation to the Bureau of Alcohol, Tobacco, and Firearms.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 300

Estimated Time Per Respondent: 5 minutes

Estimated Total Annual Burden Hours: 25

Estimated Total Annualized Cost on the Public: \$544.50

Dated: April 29, 2004

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Group.*

[Published in the Federal Register, May 5, 2004 (69 FR 25136)]

PROPOSED COLLECTION; COMMENT REQUEST

Transportation Entry and Manifest of Goods

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Transportation Entry and Manifest of Goods Subject to CBP Inspection and Permit. This request for comment is being made pursuant

to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 6, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Transportation Entry and Manifest of Goods Subject to CBP Inspection and Permit

OMB Number: 1651-0003

Form Number: Form CBP-7512A and B

Abstract: This collection involves the movement of imported merchandise from the port of importation to another Customs port prior to release of the merchandise.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 10,000

Estimated Time Per Respondent: 6 minutes

Estimated Total Annual Burden Hours: 56,000

Estimated Total Annualized Cost on the Public: \$918,400

Dated: May 7, 2004

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Group.*

[Published in the Federal Register, May 5, 2004 (69 FR 25137)]

PROPOSED COLLECTION; COMMENT REQUEST

U.S./Israel Free Trade Agreement

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the U.S./Israel Free Trade Agreement. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 6, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2C, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the

use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: U.S./Israel Free Trade Agreement

OMB Number: 1651-0065

Form Number: N/A

Abstract: This collection is used to ensure conformance with the provisions of the U.S./Israel Free Trade Agreement for duty free entry status.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 34,500

Estimated Time Per Respondent: 10 minutes

Estimated Total Annual Burden Hours: 7,505

Estimated Total Annualized Cost on the Public: \$157,605

Dated: April 29, 2004

TRACEY DENNING,
Agency Clearance Officer,
Information Services Group.

[Published in the Federal Register, May 5, 2004 (69 FR 25137)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.

Washington, DC, May 5, 2004,

The following documents of the Bureau of Customs and Border Protection ("CBP"), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

SANDRA L. BELL,
*Acting Assistant Commissioner,
Office of Regulations and Rulings.*

**PROPOSED REVOCATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO TARIFF
CLASSIFICATION OF MINIATURE GARDENING TOOL SET**

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of proposed revocation of a ruling letter and revocation of treatment relating to the tariff classification of a miniature gardening tool set.

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 U.S. Customs and Border Protection (CBP) intends to revoke a ruling letter pertaining to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of a miniature gardening tool set and to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before June 18, 2004.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs and Border Protection, 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 and Border Protection, 799 9th Street, NW, Washington, D.C during regular business hours. Ar-

rangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Keith Rudich, Commercial Rulings Division, (202) 572-8782.

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 CBP 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 CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the CBP and related laws. In addition, both the trade and CBP 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 CBP to properly assess duties, determine value, 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 CBP intends to revoke a ruling letter pertaining to the tariff classification of a miniature gardening tool kit. Although in this notice CBP is specifically referring to one ruling, G80010, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP 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 CBP 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, CBP intends to revoke any treatment previously accorded by CBP 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, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or CBP's previous interpretation of the HTSUSA. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP 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 the effective date of the final notice of this proposed action.

In NY G80010, dated July 28, 2000, set forth as "Attachment A" to this document, CBP found that a miniature gardening tool kit was classified in subheading 8205.51.3060, HTSUS, as household tool and parts thereof, of iron or steel, other, other (including parts). CBP has reviewed the matter and determined that the correct classification of the miniature gardening tool kit, pursuant to General Rule of Interpretation 3(c) is in subheading 8424.20.1000, HTSUSA, as a simple piston pump spray.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY G80010, 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) 966948 (see Attachment B, to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: April 30, 2004

John Elkins for MYLES B. HARMON,
Director;
Commercial Rulings Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
NY G80010
July 28, 2000
CLA-2-82:RR:NC:1:118 G80010
CATEGORY: Classification
TARIFF NO.: 8205.51.3060

MS. PILAR DORFMAN
E. BESLER & COMPANY
P. O. Box 66361
Chicago, IL 60666-0361

RE: The tariff classification of a 7-piece plant care kit from China.

DEAR MR. DORFMAN:

In your letter dated July 12, 2000, on behalf of your client, LTD Commodities, Inc., Bannockburn, IL, you requested a tariff classification ruling. Your submitted sample will be returned to you as requested.

You have described your submitted sample, item# 534046-8IPN, as a 7-piece plant care kit. As per our telephone conversation, it will be sold in a cardboard box. It contains the following:

Branch and twig pruner (7¼" x 2 1/8") - made of metal with a plastic handle and a 5¾" rubber strap and a locking switch to hook blades closed for storage and safety.

Leaf and flower snipper (6¼" x 1½") - made of metal with a plastic handle and a locking clip.

Spade (7¼" x 1¾") - with wooden handle and stainless steel blade. Trowel (7" x 1") - with wooden handle and stainless steel blade.

Aerator (6 1/8") - with stainless steel tines.

Mister (6½" x 3" dia.) - made of glass with a metal/plastic handle and pump.

Canvas tote (8½" x 6¼" x 5½") - made of 100% cotton with 7 exterior pockets to store string, labels, seeds, etc.

We believe that the 7-piece plant care kit meets the explanatory note definition of "goods put up in sets for retail sale." First, the kit consists of at least two different articles, which are, prima facie, classifiable in two different headings. Secondly, the items are put up together to carry out the specific activity of gardening and the items will be used together or in conjunction with one another. Lastly, the articles are put up in a manner suitable for sale directly to users without repacking. We thus believe that the plant care kit qualifies as a set of GRI 3(b); and we must then determine which item imparts the essential character to the set.

The kit includes five hand tools for working in the garden. They include a pruner, snipper, spade, trowel, aerator and a mister. We find that all of the items are equally important within the set and

that there is no single significant feature that distinguishes one from the other. Thus, we cannot ascertain which item in this set imparts the essential character. Accordingly, GRI 3(c) states that when goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading, which occurs last in numerical order among those which equally merit consideration. The gardening tools would fall last in the tariff under chapter 82. It is however, used for gardening in the household.

The applicable subheading for the 7-piece plant care kit with its pocketed cotton canvas tote carry case and the Mister is classifiable based upon the spade, trowel and aerator, under subheading 8205.51.3060, HTS, which provides for household tools and parts thereof: of iron or steel: other: other (including parts). The duty rate will be 3.7% ad valorem.

The cotton tool bag is classifiable in 4202.92.6091, HTS. Whether or not imported as part of a set, the tool bag is subject to quota and visa restrictions if a product of China. Goods classifiable in tariff 4202.92.6091, HTS, require the designation of category number 369. This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this 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 Kathy Campanelli at 212-637-7025.

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

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966948
CLA-2 RR:CR:GC 966948 KBR
CATEGORY: Classification
TARIFF NO.: 8424.20.1000, 4202.92.6091

MS. PILAR DORFMAN
E. BESLER & COMPANY
P. O. Box 66361
Chicago, IL 60666-0361

RE: Potting/Gardening Miniature Tool Set

DEAR MS. DORFMAN:

This is in reference to New York Ruling Letter (NY) G80010, dated July 28, 2000, issued to you by the Customs National Commodity Specialist Division, regarding the classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of a 7-piece miniature gardening

tools plant care kit. We have reconsidered NY G80010 and determined that the classification of the miniature gardening tools kit is not correct.

In NY G80010, Customs found that the miniature gardening tool kit was classified in subheading 8205.51.3060, HTSUSA, which provides for household tools and parts thereof: of iron or steel: other: other (including parts). U.S. Customs and Border Protection (CBP) has reviewed the matter and believes that the correct classification of the miniature gardening tools set is in subheading 8424.20.1000, HTSUSA, as a simple piston pump spray.

FACTS:

NY G80010 concerned a 7-piece potting/gardening miniature tool kit with carry bag. The kit contains a 7 x 1 inch trowel, a 7¼ x 1 ¾ inch spade, a 6 1/8 inch fork/aerator, a 6¼ x 1½ inch spring-snipper with lock, a 7¼ x 2 1/8 inch spring-pruner with lock, a 6½ x 3 (diameter) inch spray mister, and a canvas tote bag. The trowel, spade, and fork/aerator are made of stainless steel with a wooden handle covered in soft plastic. The snipper and pruner are made of stainless steel with soft plastic covered handles. The spray mister's body is made of glass with a plastic cap/plunger/sprayer. The tote bag is an open cotton canvas bag with two carry handles, 5 side pockets and 2 end pockets, and a bungee-type cord looped through each side to retain tools placed in the side pockets.

In NY G80010, it was determined that the miniature gardening tool set was classified in subheading 8205.51.3060, HTSUSA, as household tools and parts thereof: of iron or steel: other: other (including parts). We have reviewed that ruling and determined that the classification is incorrect. This ruling sets forth the correct classification.

ISSUE:

Whether the subject potting/gardening miniature tools may be classified as a set or must be individually classified. If a set, which General Rules of Interpretation (GRI) is used to classify the set.

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) in accordance with the GRIs. The systematic detail of the HTSUSA is such that most 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 interpreting the headings and subheadings, CBP looks to the Harmonized Commodity Description and Coding System Explanatory Notes (ENs). Although not legally binding, they provide a commentary on the scope of each heading of the HTSUSA. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUSA provisions under consideration are as follows:

| | |
|--------------|--|
| 4202 | 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, insulated food or beverage 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 paperboard, or wholly or mainly covered with such materials or with paper: |
| | * * * * * |
| | Other: |
| 4202.92 | With outer surface of sheeting of plastic or textile materials: |
| | * * * * * |
| | Other: |
| 4202.92..60 | Of cotton (369) |
| 4202.92.6091 | Other (369) |
| | * * * * * |
| 8201 | Handtools of the following kinds and base metal part thereof: spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry: |
| 8201.10.0000 | Spades and shovels, and parts thereof |
| 8201.20.0000 | Forks, and parts thereof |
| | * * * * * |
| 8201.50.0000 | Secateurs and similar one-handed pruners and shears (including poultry shears), and parts thereof |
| | * * * * * |
| 8205 | Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof: |
| | * * * * * |

Other handtools (including glass cutters) and parts thereof:

8205.51 Household tools, and parts thereof:

Of iron or steel:

* * * * *

8205.51.30 Other (including parts)

8205.51.3060 Other (including parts)

* * * * *

8424 Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines; parts thereof:

* * * * *

8424.20 Spray guns and similar appliances:

8424.20.1000 Simple piston pump sprays and powder bellows

CBP has ruled that, except for the pruner and snipper, miniature gardening tools of the type involved here are not classified in heading 8201, HTSUSA, which is meant for full-sized handtools for use primarily outdoors in a yard or garden. *See* HQ 085481 (December 8, 1989) and NY J86714 (July 16, 2003) (ruling that miniature gardening tools are classified in heading 8205, HTSUSA). *See, e.g.*, HQ 960587 (June 23, 1998), NY 869546 (December 23, 1991), NY I80595 (April 16, 2002), and NY I83734 (June 28, 2002) (ruling that full-sized garden tools are classified in heading 8201, HTSUSA). In HQ 085481, CBP stated that:

Concerning the classification of the "spade," "trowel," and "rake," we adopt the rationale of our ruling of June 22, 1989 (file 083964), in which we held that similar miniature tools were not spades, rakes, or horticultural tools of heading 8201. Spades, rakes, and trowels of the type in 8201 may be large or small, as long as they meet the common meaning of the terms. In this case, the miniature spade does not rise to the level of a spade which is defined in *Webster's Third New International Dictionary* (Unabridged), 1965, at page 2181, as "an implement for turning soil * * * adapted for being pushed into the ground with the foot * * *." The miniature rake does not rise to the level of a rake which is defined at page 1876 as "a hand tool usu. of a bar with projecting prongs that is set transversely at the end of a long handle and used for gathering grass, leaves, or other material or for loosening or smoothing the surface of the ground * * *."

Regarding classification as other tools of a kind used in horticulture in heading 8701 [sic], we also conclude that the lack of substantial construction and size are sufficient to remove these miniature tools, including the miniature trowel," from the type of tools commonly recognized and used in the pursuit of horticulture. For example, the list of exem-

plars in the EN to heading 8201 includes tools that have a more durable and serious application to agricultural or horticultural uses. . . .

Therefore, we find that the miniature trowel, spade and fork/aerator if imported separately are classifiable as hand tools not specified elsewhere, in subheading 8205.51.3060, HTSUSA.

However, heading 8201, HTSUSA, provides for "pruners of any kind." Because of this inclusive language, CBP has ruled that hand tools such as miniature pruners and snippers are still classified heading 8201, HTSUSA. HQ 085481 (December 8, 1989); *see* EN 82.01(5). Therefore, if imported separately, the pruner and snipper would be classifiable as hand tools, secateurs and similar one handed pruners and shears in subheading 8201.50.0000, HTSUSA.

The miniature gardening tool kit also includes a glass spray mister. If imported separately, spray misters of the type in the instant case are classifiable in subheading 8424.20.1000, HTSUSA, as a simple piston pump spray. *See, e.g.*, NY 813550 (September 7, 1995).

The canvas tote bag if imported separately is classifiable in subheading 4202.92.6091, HTSUSA. *See* NY C83791 (February 10, 1998), NY C80552 (October 27, 1997, and PD C83608 (January 27, 1998).

The gardening miniature tool kit meets the GRI 3(b) and attendant EN (X) definition of "goods put up in sets for retail sale." First, the gardening set consists of at least two different articles which are, *prima facie*, classifiable in two different headings. Secondly, the items are put up together to carry out the specific activity of potting/gardening and the items will be used together or in conjunction with one another. Lastly, the articles are put up in a manner suitable for sale directly to users without repacking. We thus believe that the gardening miniature tool kit qualifies as a set of GRI 3(b); and we must now determine which item imparts the essential character to the set.

The factor which determines essential character may be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. GRI 3(b) EN (VIII). CBP has previously ruled that for gardening sets, each of the tools is equally important and no individual tool establishes an essential character for the set. Therefore, gardening sets generally should be classified pursuant to GRI 3(c). *See* NY F88782 (July 19, 2000), HQ 085481 (December 8, 1989), NY H84786 (August 23, 2001).

GRI 3(c) states that when goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. We believe that, in this instance, each of the miniature tools and mister have equal importance in the gardening miniature tool set. Because these articles are classified under different headings, GRI 3(c) applies. Because the spray mister is classified last in numerical order, the gardening miniature tool set is classified in subheading 8424.20.1000, HTSUSA, as a simple piston pump spray.

Notwithstanding the tote bag's inclusion as a constituent part of the set for classification purposes under GRI 3(b), the tote bag is a textile article and remains subject to visa and quota requirements, regardless of where the set is classified. The tote bag at issue is classified in 4202.92.6091, HTSUSA, and falls within textile category 369.

HOLDING:

In accordance with the above discussion, the gardening miniature tool set is classified in subheading 8424.20.1000, HTSUSA, by virtue of GRI 3(c) as a simple piston pump spray. The rate of duty under the General column is 2.9% *ad valorem*. The tote bag, which is classified in 4202.92.6091, HTSUSA, falls within textile category 369, and will remain subject to visa and quota requirements regardless of where the gardening miniature tool set is classified.

The designated textile and apparel category 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 renegotiations and changes, to obtain the most current information available, we suggest you or your client check, close to the time of shipment, the Textile Status Report for Absolute Quotas, previously available on the Customs Electronic Bulletin Board (CEBB), which is now available on the U.S. Customs and Border Protection website at www.cbp.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 or your client should contact the local U.S. Customs and Border Protection office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

EFFECT ON OTHER RULINGS:

NY G80010 dated July 28, 2000, is **REVOKED**.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

**MODIFICATION OF RULING LETTERS AND REVOCATION
OF TREATMENT RELATING TO THE CLASSIFICATION OF
METALIZED POLYESTER EMBROIDERY THREAD AND
DECORATIVE WIRED TRIM**

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: Notice of modification of two tariff classification ruling letters and revocation of any treatment relating to the classification of metalized polyester embroidery thread and a decorative wired trim.

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 CBP is modifying two ruling letters relating to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of metalized polyester em-

broidery thread and a decorative wired trim. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed action was published on March 24, 2004, in the *Customs Bulletin* in Vol. 38, Number 13. No comments were received in response to this notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after July 18, 2004.

FOR FURTHER INFORMATION CONTACT: Ann Segura Minardi, Textiles Branch, (202) 572-8822.

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 CBP 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 CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the CBP and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. section 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 CBP 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, a notice was published in the *Customs Bulletin* on March 24, 2004, proposing to modify two ruling letters pertaining to the tariff classification of metalized polyester embroidery thread and a decorative wired trim. No comments were received in response to this notice.

As stated in the notice of proposed modification, although CBP is specifically referring to the modification of New York Ruling Letter (NY) J81433, dated March 11, 2003, and NY J82071, dated March 21, 2003, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in

addition to the two identified. No further 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 have advised CBP 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, CBP intends to revoke any treatment previously accorded by CBP 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, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or CBP's previous interpretation of the HTSUSA. Any person involved in substantially identical transactions should have advised CBP during this notice period. An importer's failure to advise CBP 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 importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying NY J81433, dated March 11, 2003, and NY J82071, dated March 21, 2003, and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letters (HQ) 966599 (Attachment A) and HQ 966438 (Attachment B). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions that are contrary to the determination set forth in this notice. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

DATED: April 28, 2004

Cynthia Reese for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966599
April 28, 2004
CLA-2: RR:CR:TE 966599 ASM
CATEGORY: Classification
TARIFF NO.: 5605.00.9000

MS. EVEYLN EDWARDS
TEXMAC, INC.
3001 Stafford Drive
P. O. Box 668128
Charlotte, NC 28266-8128

RE: Modification of NY J81433; Metalized Polyester Embroidery Thread

DEAR MS. EDWARDS:

This letter involves the modification of Customs and Border Protection (CBP), Department of Homeland Security, New York Ruling (NY) J81433, dated March 11, 2003, concerning the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of metalized polyester embroidery thread.

Upon review, the CBP has determined that the merchandise was erroneously classified in NY J81433. This ruling letter sets forth the correct classification determination.

Pursuant to section 625(c), Tariff Act of 1930, 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 revocation of NY J81433 was published on March 24, 2004, in Vol. 38, No. 13, of the *Customs Bulletin*. No comments were received in response to this notice.

FACTS:

The subject article is a metalized polyester gold embroidery thread. The thread is composed of polyester strip wrapped spirally (gimped) around a multifilament core which itself has no twist and does not twist with the strip. The strips are considered textile material for tariff classification purposes. In NY J81433, the subject thread was classified in subheading 5606.00.0090, HTSUSA, which provides, in pertinent part, for gimped yarn, and strip and the like of heading 5404 or 5405, gimped.

ISSUE:

What is the proper classification for the merchandise?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). 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 heading and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the Harmonized System at

the international level. While neither legally binding nor dispositive, the ENs 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, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The subject article is classifiable pursuant to GRI 1 and is specifically described in Heading 5605, HTSUSA, which provides for "Metallized yarn, whether or not gimped, being textile yarn or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal." In addition, the 56.05 EN states that the heading covers:

- (2) Yarn of any textile material (including monofilament, strip and the like, and paper yarn) covered with metal by any other process.

The 56.05 EN further states that the heading covers products consisting of a core of plastic film coated with "metal dust, sandwiched by means of an adhesive between two layers of plastic film." The EN also provides exemplars of the types of yarns covered by heading 5605, e.g., . . . fancy cords as used by confectioners, obtained by twisting together two or more metalized yarns." Although the yarn at issue is gimped, it is more specifically and completely described as a metalized yarn of heading 5605, HTSUSA. Furthermore, by the terms of heading 5606, HTSUSA, the subject article is excluded from heading 5606, HTSUSA, which provides for "Gimped yarn, and strip and the like of heading 5404 or 5405, gimped (other than those of heading 5605 and gimped horsehair yarn); chenille yarn (including flock chenille yarn); loop wale-yarn" because the heading specifically excludes gimped metalized yarns of heading 5605. See EN to 56.06.

Clearly, the subject merchandise meets the terms of heading 5605, HTSUSA, and is in accordance with the EN. Additionally, Section XI EN, General Note (I)(B)(2), Table I (page 920, 2002 Ed.) places metalized yarn in heading 56.05 "in all cases." Furthermore, in two recent rulings CBP classified metalized yarn in subheading 5605.00.9000, HTSUSA. See Headquarters Ruling (HQ) 964997, dated May 20, 2002; and NY J82791, dated April 4, 2003. Therefore, by virtue of GRI 1, the metalized polyester gold embroidery thread is properly classified under subheading 5605.00.90, HTSUSA, which provides for metalized yarn.

In view of the foregoing, we have determined that NY J81433, incorrectly classified the metalized polyester gold embroidery thread.

HOLDING:

NY J81433, dated March 11, 2003, is hereby modified.

The subject merchandise, identified as metalized polyester gold embroidery thread, is correctly classified in subheading 5605.00.9000, HTSUSA, which provides for, "Metalized yarn, whether or not gimped, being textile yarn, or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal: Other." The general column one duty rate is 13.2 percent *ad valorem*. The textile category is 201.

The designated textile and apparel category 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 renegotiations and changes, to obtain the most current information available, we suggest the importer check, close to the time of shipment, the Textile Status Report for Absolute

Quotas, previously available on the CBP Electronic Bulletin Board (CEBB), which is available on the CBP Bulletin Website at www.customs.treas.gov.

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

In accordance with 19 U.S.C. section 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

Cynthia Reese for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966438
April 28, 2004
CLA-2: RR:CR:TE 966438 ASM
CATEGORY: Classification
TARIFF NO.: 5605.00.9000

MS. CAROL KRUPSKAS
IMPORT SUPERVISOR
KAMINO INTERNATIONAL TRANSPORT, INC.
Airport Industrial Park, Bldg. B4A
Valley Stream, NY 11581

RE: Modification of NY J82071; Tariff Classification of Decorative Wired Trim

DEAR MS. KRUPSKAS:

This letter involves the modification of Customs and Border Protection (CBP), Department of Homeland Security, New York Ruling (NY) J82071, dated March 21, 2003, concerning the classification of decorative wired trim, among other things, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA).

Upon review, the CBP has determined that the merchandise was erroneously classified in NY J82071. This ruling letter sets forth the correct classification determination.

Pursuant to section 625(c), Tariff Act of 1930, 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 NY J82071 was published on March 24, 2004, in Vol. 38, No. 13 of the *Customs Bulletin*. No comments were received in response to this notice.

FACTS:

The subject article is a decorative wired trim, Item # MXT12208. The article is composed of lengths of metalized plastic strips that have been wrapped around untwisted filament and a wire. A decorative "eyelash" effect

is created by twisting groups of the plastic strips, in 1-inch lengths, at 1-¼ inch intervals. The strips are considered textile material for tariff classification purposes.

In NY J82071, the subject article was classified in subheading 5607.50.3500, HSTUSA, which provides for twine, cordage, rope and cable; of other synthetic fibers; not braided or plaited; other. Based on information received from the import quote sheet supplied by the broker we note that the subject article is described as an “eyelash cord” made from 20 percent wire and 80 percent metallic, of knit construction. As such, we have determined that the plastic strips are metalized.

ISSUE:

What is the proper classification for the merchandise?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). 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 heading and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs 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, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The subject article is classifiable pursuant to GRI 1 and is specifically described in Heading 5605, HTSUSA, which provides for “Metalized yarn, whether or not gimped, being textile yarn or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal.” In addition, the 56.05 EN states that the heading covers:

- (2) Yarn of any textile material (including monofilament, strip and the like, and paper yarn) covered with metal by any other process.

The 56.05 EN further states that the heading covers products consisting of a core of plastic film coated with “metal dust, sandwiched by means of an adhesive between two layers of plastic film.” The EN also provides exemplars of the types of yarns covered by heading 5605, e.g., . . . fancy cords as used by confectioners, obtained by twisting together two or more metalized yarns.”

The yarn at issue contains a wire. EN (1) to heading 5607 includes therein as twine, cordage or rope, yarn reinforced with metal thread. In the instant case, the wire does not reinforce the yarn. Rather, the wire allows the yarn to be shaped, lending to its decorative nature. The heading text to 5605 more specifically and completely describes the decorative wire trim as metalized yarn. In fact, the heading text mentions yarn combined with metal thread or strip such as this wire.

Clearly, the subject merchandise meets the terms of heading 5605, HTSUSA, and is in accordance with the EN. Additionally, Section XI EN, General Note (I)(B)(2), Table I (page 920, 2002 Ed.) places metalized yarn in heading 56.05 “in all cases.” Furthermore, in two recent rulings CBP classified metalized yarn in subheading 5605.00.9000, HTSUSA. See Headquar-

ters Ruling (HQ) 964997, dated May 20, 2002; and NY J82791, dated April 4, 2003. Therefore, by virtue of GRI 1, the decorative wired trim is properly classified under subheading 5605.00.90, HTSUSA, which provides for metalized yarn.

In view of the foregoing, we have determined that NY J82071, incorrectly classified the decorative wired trim.

HOLDING:

NY J82071, dated March 21, 2003, is hereby modified.

The subject merchandise, Item # MXT 12208, is correctly classified in subheading 5605.00.9000, HTSUSA, which provides for, "Metalized yarn, whether or not gimped, being textile yarn, or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal: Other." The general column one duty rate is 13.2 percent *ad valorem*. The textile category is 201.

The designated textile and apparel category 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 renegotiations and changes, to obtain the most current information available, we suggest the importer check, close to the time of shipment, the Textile Status Report for Absolute Quotas, previously available on the CBP Electronic Bulletin Board (CEBB), which is available on the CBP Bulletin Website at www.customs.treas.gov.

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

In accordance with 19 U.S.C. section 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

Cynthia Reese for MYLES B. HARMON,
Director,
Commercial Rulings Division.

**PROPOSED REVOCATION OF RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CERTAIN CARBON-LINED
CLOTHING AND CARBON-IMPREGNATED FABRIC**

AGENCY: Bureau of Customs and Border Protection; Department of Homeland Security.

ACTION: Notice of proposed revocation of tariff classification ruling letters and revocation of treatment relating to the classification of certain carbon-lined clothing and carbon-impregnated fabric.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), this notice advises interested parties that Customs and Border Protection (CBP) intends to revoke ruling letters relating to the tariff classification of certain carbon-lined clothing and

carbon-impregnated fabric under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). CBP 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 June 18, 2004.

ADDRESS: Written comments are to be addressed to Customs and June 18, 2004. Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 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: Brian Barulich, Textiles Branch: (202) 572-8883.

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 CBP 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 CBP 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 CBP 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 CBP intends to revoke ruling letters pertaining to the tariff classification of certain carbon-lined clothing and carbon-impregnated fabric. Although in this notice, CBP is specifi-

cally referring to the revocation of New York Ruling Letter (NY) G86317, dated January 25, 2001 (Attachment A) and NY F83890, dated March 24, 2000 (Attachment B), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP 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 CBP 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, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise or the importer's or CBP's previous interpretation of the HTSUSA. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP 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 importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY G86317, CBP ruled that an activated carbon-lined "Scentblocker" pullover top and activated carbon-lined "Scentblocker" stretch waistband pants were classifiable in subheading 6815.10.0000, HTSUSA, which provides for "Articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included: Nonelectrical articles of graphite or other carbon." In NY F83890, CBP ruled that "a laminated fabric impregnated with carbon, for use in manufacturing scent eliminating hunting clothes" was also classifiable in subheading 6815.10.0000, HTSUSA.

Based upon our analysis of the scope of the terms of subheading 6815.10.0000, HTSUSA, the Section Notes, and Explanatory Notes, we have determined that the activated carbon-lined "Scentblocker" pullover top is likely classifiable in heading 6110, HTSUSA, which provides for "Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted", that the activated carbon-lined "Scentblocker" stretch waistband pants are likely classifiable in heading 6103, HTSUSA, which provides for "Men's or boys' suits, ensembles, suit-type jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted or crocheted", and that the "laminated fabric impregnated with carbon" at issue in NY F83890 is likely classifiable under Heading 5907, HTSUSA, which provides in part for "Textile fabrics otherwise im-

pregnated, coated or covered . . .”, Heading 5603, HTSUSA, which provides for “Nonwovens, whether or not impregnated, coated, covered or laminated”, or under a heading in Chapter 60, HTSUSA, as knit fabric.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY G86317 and NY F83890 and any other rulings not specifically identified, to reflect the proper classification of the carbon-lined garments and laminated fabric impregnated with carbon according to the analyses contained in proposed Headquarters Ruling Letter (HQ) 966422 (regarding the “Scentblocker” pullover top and stretch waistband pants), set forth as Attachment C to this document and HQ 966423 (regarding the laminated fabric impregnated with carbon), set forth as Attachment D to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical merchandise. Before taking this action, consideration will be given to any written comments timely received.

DATED: April 29, 2004

Cynthia Reese for MYLES B. HARMON,
Director,
Commercial Rulings Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
NY G86317
January 25, 2001
CLA-2-68:RR:NC:2:237 G86317
CATEGORY: Classification
TARIFF NO.: 6815.10.0000

MR. KEVIN EGAN
E. BESLER & COMPANY
115 Martin Lane
Elk Grove Village, Illinois 60007-1309

RE: The tariff classification of activated carbon lined “Scent-Blocker” clothing from China.

DEAR MR. EGAN:

In your letter dated January 5, 2001, on behalf of Robinson Laboratories, you requested a tariff classification ruling.

The submitted sample is activated carbon lined clothing consisting of a pullover top and stretch waistband pants. The included literature describes the purpose of the lining is to absorb human odor.

The applicable subheading for the activated carbon lined clothing will be **6815.10.0000**, Harmonized Tariff Schedule of the United States (HTS), which provides for articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included: nonelectrical articles of graphite or other carbon. The rate of duty will be free.

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 Frank Cantone at 212-637-7018.

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

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
NY F83890
March 24, 2000
CLA-2-68:RR:NC:2:237 F83890
CATEGORY: Classification
TARIFF NO: 6815.10.0000

MR. KEVIN EGAN
E. BESLER & Co.
115 Martin Lane
Elk Grove Village, Illinois 60007

RE: The classification of carbon impregnated fabric from England.

DEAR MR. EGAN:

In your letter dated February 24, 2000 you requested a tariff classification ruling for a laminated fabric consisting of an outer polyester knit fabric and an inner non-woven fabric impregnated with carbon, for use in manufacturing scent eliminating hunting clothes.

The applicable subheading for the carbon impregnated fabric will be **6815.10.0000**, HTSUS, which provides for nonelectrical articles of graphite or other carbon. The rate of duty is free. 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 rul-

ing, contact National Import Specialist Frank Cantone at 212-637-7018.

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

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966422
CLA-2:RR:CR:TE: 966422 BTB
CATEGORY: Classification
TARIFF NO.: 6110, 6103

MR. KEVIN EGAN
E. BESLER & COMPANY
115 Martin Lane
Elk Grove Village, IL 60007-1309

RE: Revocation of NY G86317; certain activated carbon-lined clothing

DEAR MR. EGAN:

This is in reconsideration of New York Ruling Letter (NY) G86317, dated January 25, 2001, issued to you by the U.S. Customs Service (now the Bureau of Customs and Border Protection (CBP)) concerning the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of certain activated carbon-lined "Scentblocker" clothing from China. We have reviewed NY G86317 and have determined that the classification of the items provided is incorrect. This ruling sets forth the correct classification of the items.

FACTS:

On January 5, 2001, on behalf of Robinson Laboratories, Inc., you requested a tariff classification ruling on an activated carbon-lined "Scentblocker" pullover top ("pullover") and activated carbon-lined "Scentblocker" stretch waistband pants ("pants"). The stated purpose of the activated-carbon lining is to block the human scent while hunting. Any samples of the garments that we may have had were lost on September 11, 2001, in our former 6 World Trade Center office in New York City. Based on the limited information that we currently have about the pullover and pants, we believe that the garments had outer shells of knit textile materials and separate sewn-in linings of carbon-impregnated fabric.

In NY G86317, Customs classified the pullover and pants in subheading 6815.10.0000, HTSUSA, which provides for "Articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included: Nonelectrical articles of graphite or other carbon".

ISSUE:

Whether the pullover and pants are properly classified in heading 6815, HTSUSA, as articles of carbon fibers or in Section XI, HTSUSA, as textile articles?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 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.” In the event that 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 may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

GRI 1 provides that articles are to be classified by the terms of the headings and relative Section and Chapter Notes. For an article to be classified in a particular heading, the heading must describe the article, and the article not be excluded therefrom by any legal note. In the case at hand, based on available information, we believe that three headings are potentially applicable to each item. We believe that the potential headings for the pullover are heading 6110, HTSUSA, which provides for “Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted”, heading 6113, HTSUSA, which provides for “Garments, made up of knitted or crocheted fabrics of heading . . . 5907”, and heading 6815, HTSUSA, which provides for “Articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included.” We believe that the potential headings for the pants are 6103, HTSUSA, which provides for “Men’s or boys’ suits, ensembles, suit-type jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted or crocheted: Trousers, bib and brace overalls, breeches and shorts”, heading 6113, HTSUSA, and heading 6815, HTSUSA.

As stated earlier, we believe that the garments were constructed with separate sewn-in linings of carbon-impregnated fabric and that the outer shells of the garments were made of textile materials. We believe that each of the three headings set forth above may be *prima facie* applicable to each item, respectively. However, due to our current lack of a product sample and information, we are unable to ascertain whether the items are constructed of textile fabric classifiable under heading 5907, HTSUSA, which provides for “Textile fabrics otherwise impregnated, coated or covered. . . .” If the items are constructed out of fabric classifiable under heading 5907, HTSUSA, then the garments are *prima facie* classifiable heading 6113, HTSUSA, which provides for “Garments, made up of knitted or crocheted fabrics of heading . . . 5907”. While we are not certain that the items are *prima facie* classifiable under heading 6113, HTSUSA, we are certain that at least two

of the headings (heading 6110 and heading 6815 to the pullover; heading 6103 and heading 6815 to the pants) are *prima facie* applicable to each item, respectively.

As the garments consist of more than one material (i.e., textile fabric outer shell and textile and carbon lining), they constitute composite goods. As composite goods, GRI 3(b) requires that classification be effected according to the essential character of the articles.

The EN to GRI 3(b) state, in relevant part:

(VII). In all these cases the goods are to be classified as if they consisted of the material or component **which gives them their essential character**, insofar as this criterion is applicable.

(VIII). The factor which determines the essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.

While we have recognized that linings do impart desirable and, sometimes, necessary features to garments, it is generally the outer shell which creates the garment and, thus, imparts the essential character. See HQ 952437, dated October 23, 1992. In the instant case, while the scent absorbing properties of the activated carbon are an important feature of the articles, the articles in and of themselves, are articles of wearing apparel, designed for wear in the normal manner of pants, jackets, shirts, pullovers, etc. It is the outer shells of the articles that create the garments. Even when the activated-carbon properties are exhausted, the garments can still be worn as camouflage hunting wear. Therefore, we find that the outer shells of the garments impart the essential character of the garments. As we believe the lining material contains the activated-carbon and not the outer shell material, we need no longer consider classification under heading 6113, HTSUSA. We must now turn to whether the presence of carbon in the articles precludes them from classification as wearing apparel in Section XI, HTSUSA.

Section XI, HTSUSA, covers textiles and textile articles. Note 1(q), Section XI, HTSUSA, states that "This section does not cover . . . carbon fibers or articles of carbon fibers of heading 6815." The EN for heading 6815 states, in relevant part, that the heading covers, *inter alia*, "Carbon fibres and articles of carbon fibres." The HTSUSA and the EN, however, are silent regarding how much carbon fiber an article must have in its composition before constituting an article of carbon fibers under heading 6815. We have previously held textiles and textile articles containing carbon fibers to be classifiable in Section XI and not under heading 6815, HTSUSA. For example, in NY C86464, dated April 20, 1998, we ruled that a 97% polyester/3% carbon blend plain woven fabric was classifiable within Section XI, HTSUSA. Additionally, in NY J88624, dated September 5, 2003, we ruled that a plain woven fabric composed of 99% textured filament polyester and 1% filament carbon fiber was classifiable within Section XI, HTSUSA. As these rulings illustrate, the presence of carbon in an article does not preclude an article from being classifiable in Section XI, HTSUSA, if the article's essential character is imparted by its textile component.

In fact, several other activated carbon-lined products imported by Robinson Laboratories have been classified under subheadings within Sec-

tion XI, HTSUSA, as wearing apparel. In NY G88235, addressed to you, dated July 12, 2001, we ruled that “BugLite” and “UltraLite” style men’s knit jackets featuring linings of 100 percent polyester, laminated “Scentblocker Plus” fabric with activated carbon were classifiable under subheading 6101.30.2010, HTSUSA, as men’s jackets. In the same ruling, we held that “BugLite” and “UltraLite” style men’s knit pants, which had the same lining as their jacket counterparts, were classifiable under subheading 6101.43.1520, HTSUSA, as men’s knit pants. Also in NY G88235, a “FeatherLite” style men’s jacket with the same lining as the other two models in the ruling was held to be classifiable under heading 6201, HTSUSA. In NY I82383, also addressed to you, dated July 3, 2002, we ruled that five different styles of gloves featuring linings with “Scentblocker” fabric were classifiable under subheading 6116.93.0800, HTSUSA, as gloves for sports. In NY G88451, also addressed to you, dated April 3, 2001, we held that a facemask and hood constructed of an outer shell of warp knit 50 percent polyester/50 percent cotton fabric with a lining of activated carbon material were classifiable under subheading 6117.80.9540, HTSUSA, and 6505.90.6090, HTSUSA, respectively. And, in NY J82399, dated April 18, 2003, also addressed to you, we ruled that a “Frontier” style men’s jacket and pants featuring “Scentblocker Plus” fabric with activated carbon were classifiable under subheadings 6101.30.2010 and 6103.43.1520, HTSUSA, respectively.

Based on available information, we find that the instant pullover and pants obtain their essential character from their textile materials and are, hence, classifiable in Section XI, HTSUSA, as wearing apparel. The presence of carbon in the articles does not prevent them from being classifiable as such.

HOLDING:

NY G86317 is hereby revoked.

Based on what we currently know about the subject pullover, we believe that it is likely classifiable under heading 6110, HTSUSA, which provides for “Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted.” Based on what we currently know about the subject pants, we believe that they are likely classifiable under heading 6103, HTSUSA, which provides for “Men’s or boys’ suits, ensembles, suit-type jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted or crocheted: Trousers, bib and brace overalls, breeches and shorts.”

As stated above, any samples of the garments that we may have had were lost on September 11, 2001. We are not able to provide a more specific classification at this time without samples of the garments at issue.

We invite you to request a new ruling on the garments pursuant to Section 177 of the Customs Regulations to obtain a more precise classification of the fabric.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966423
CLA-2:RR:CR:TE: 966423 BTB
CATEGORY: Classification
TARIFF NO.: Chapter 56 or 60, HTSUSA

MR. KEVIN EGAN
E. BESLER & COMPANY
115 Martin Lane
Elk Grove Village, IL 60007-1309

RE: Revocation of NY F83890; certain carbon-impregnated fabric from England

DEAR MR. EGAN:

This is in reconsideration of New York Ruling Letter (NY) F83890, dated March 24, 2000, issued to you by the U.S. Customs Service (now the Bureau of Customs and Border Protection (CBP)) concerning the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of certain carbon-impregnated fabric from England. We have reviewed NY F83890 and have determined that the classification of the fabric provided is incorrect. This ruling revokes NY F83890.

FACTS:

On February 24, 2000, you requested a tariff classification ruling on the fabric at issue. NY F83890 describes the fabric as "a laminated fabric consisting of an outer polyester knit fabric and an inner non-woven fabric impregnated with carbon, for use in manufacturing scent eliminating hunting clothes." NY F83890 states that the fabric is from England. Any samples of the fabric that we may have had were lost on September 11, 2001, in our former 6 World Trade Center office in New York City.

In NY F83890, Customs classified the fabric in subheading 6815.10.0000, HTSUSA, which provides for "Articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included: Nonelectrical articles of graphite or other carbon."

ISSUE:

Whether the fabric is properly classified in heading 6815, HTSUSA, as an article of carbon fibers or in Section XI, HTSUSA, as a textile fabric.

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 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." In the event that 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 may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor

dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

GRI 1 provides that articles are to be classified by the terms of the headings and relative Section and Chapter Notes. For an article to be classified in a particular heading, the heading must describe the article, and the article not be excluded therefrom by any legal note. In the case at hand, four headings are potentially applicable to the merchandise in question. The potential headings are: Heading 6815, HTSUSA, which provides for "Articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included", Heading 5907, HTSUSA, which provides in part for "Textile fabrics otherwise impregnated, coated or covered . . .", Heading 5603, HTSUSA, which provides for "Nonwovens, whether or not impregnated, coated, covered or laminated", and a heading in Chapter 60, HTSUSA, which provides for knit fabrics. Each of the four headings are *prima facie* applicable to the fabric. However, as the fabric includes nonwoven fabric components, knit fabric components, and carbon impregnation, each of the headings describes part only of the article. In such a case, the merchandise is to be regarded as a "composite good" and GRI 3(b) requires that classification be effected according to the essential character of the article in question.

The EN to GRI 3(b) state, in relevant part:

(VII). In all these cases the goods are to be classified as if they consisted of the material or component **which gives them their essential character**, insofar as this criterion is applicable.

(VIII). The factor which determines the essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.

Based on what we know about the fabric at issue, we find that its textile components, not its carbon-impregnation, imparts its essential character. While the scent absorbing function of the carbon is an important feature, the merchandise is nevertheless fabric that will be used to manufacture camouflage clothing designed for hunting. Even when the scent absorbing properties of the carbon have been exhausted, the fabric will still be useful and suitable for use in whatever form it may be in. Without a sample of the merchandise, however, we cannot ascertain exactly which fabric component imparts the essential character. Hence, while we find the fabric to be classifiable in Section XI, HTSUSA, which covers textiles and textile articles, we are unable to classify the fabric under a specific heading in that section.

We note that Note 1(c) to chapter 68, HTSUSA, specifically states that the Chapter does not cover "[c]oated, impregnated, or covered textile fabric of chapter 56 or chapter 59 . . .". Therefore, if the fabric is classifiable under heading 5603, HTSUSA, as a nonwoven fabric, or under heading 5907, HTSUSA, as a textile fabric otherwise impregnated or coated, it is specifically precluded from classification under heading 6815, HTSUSA, as an article of carbon fibers. Also, we note that Note 1(q), Section XI, HTSUSA, states that "[t]his section does not cover . . . carbon fibers or articles of carbon fibers of heading 6815." The EN for heading 6815 states, in relevant

part, that the heading covers, *inter alia*, “[c]arbon fibres and articles of carbon fibres.” The HTSUSA and the EN, however, are silent regarding how much carbon fiber an article must have in its composition before constituting an article of carbon fibers under heading 6815. Without a sample of the merchandise at issue, we cannot tell how much carbon fiber is present in it. Regardless, we have previously held textiles and textile articles containing carbon fibers to be classifiable in Section XI and not under heading 6815, HTSUSA. For example, in NY C86464, dated April 20, 1998, we ruled that a 97% polyester/3% carbon blend plain woven fabric was classifiable within Section XI, HTSUSA. Additionally, in NY J88624, dated September 5, 2003, we ruled that a plain woven fabric composed of 99% textured filament polyester and 1% filament carbon fiber was classifiable within Section XI, HTSUSA. As these rulings illustrate, the presence of carbon in an article does not preclude an article from being classifiable in Section XI, HTSUSA, if the article’s essential character is imparted by its textile component.

Based on available information, we are certain that the fabric is classifiable within Section XI, HTSUSA, and not under 6815.10.0000, HTSUSA, as an article of carbon.

HOLDING:

NY F83890 is hereby revoked.

Based on what we currently know about the fabric, we believe that it is likely to be classifiable under Heading 5907, HTSUSA, which provides in part for “Textile fabrics otherwise impregnated, coated or covered . . .”, Heading 5603, HTSUSA, which provides for “Nonwovens, whether or not impregnated, coated, covered or laminated”, or under a heading in Chapter 60, HTSUSA, as a knit fabric.

As stated above, any samples of the fabric that we may have had were lost on September 11, 2001. We are not able to provide a more specific classification at this time without a sample of the fabric at issue.

We invite you to request a new ruling on the fabric pursuant to Section 177 of the Customs Regulations to obtain a more precise classification of the fabric.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

19 CFR PART 177

**REVOCATION OF RULING LETTERS AND REVOCATION
OF TREATMENT RELATING TO TARIFF CLASSIFICATION
OF KARAOKE MACHINES**

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of revocation of two ruling letters and revocation of treatment relating to the tariff classification of karaoke machines.

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 revoking two ruling letters pertaining to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of karaoke machines and revoking any treatment previously accorded by Customs to substantially identical transactions. Two comments were received in response to this notice.

EFFECTIVE DATE: This revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after July 18, 2004.

FOR FURTHER INFORMATION CONTACT: Keith Rudich, Commercial Rulings Division, (202) 572-8782.

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, a notice was published on March 10, 2004, in the *Customs Bulletin*, Vol. 38, No. 11, proposing to revoke NY I87338, dated November 4, 2002 and NY I85746, dated September 5, 2002. These rulings pertain to the tariff classification of karaoke machines.

Two comments were received in response to this notice. One comment agreed with Customs position in the proposed notice. The comment also recommended revoking NY H80326, dated May 3, 2001. That ruling involved another "Singing Machine" model of karaoke machine. However, Customs reviewed this ruling and cited to it with approval in the proposed rulings. Because the karaoke system in NY H80326 has a built-in AM/FM radio, Customs sees that article as distinguishable from the articles involved in this notice as there is not one principal function.

The second comment argued that the monitor feature of the karaoke machine deserved equal merit in considering the essential character of the article and, therefore, GRI 3(c) should apply. The comment argued that this would classify the article under the provision for video players in heading 8521, HTSUS. Customs remains of the opinion that the principal function is determined by the sound reproducing capability.

As stated in the proposed notice, this revocation 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 have advised Customs during the comment period.

In NY I87338, dated November 4, 2002, Customs found that two models of karaoke machines, one with the additional component of a cassette player/recorders, were classified in subheading 8528.22.00, HTSUS, as reception apparatus for television, whether or not incorporating radiobroadcast receivers or sound or video recording or reproducing apparatus, video monitors and video projectors, video monitors, black and white or other monochrome. Customs has reviewed the matter and determined that the correct classification of the model of karaoke machines without the recording device is in subheading 8519.99.00, HTSUS, as turntables, record players, cassette players and other sound reproducing apparatus, not incorporating a sound recording device, other sound reproducing apparatus, other. The correct classification of the model of karaoke machine with a recording device is in subheading 8543.89.96, HTSUS, as electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter, parts thereof, other machines and apparatus, other, other, other, other.

In NY I85746, dated September 5, 2002, Customs found that a karaoke machine with a recording device was classified in subheading 8520.33.00, HTSUS, as magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device, other magnetic tape recorders incorporating sound reproducing apparatus, other, cassette type. Customs has reviewed the matter and determined that the correct classification of the karaoke machine is in subheading 8543.89.96, HTSUS, as electrical ma-

chines and apparatus, having individual functions, not specified or included elsewhere in this chapter, parts thereof, other machines and apparatus, other, other, other, other.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is revoking NY I87338 and NY I85746 and revoking any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letters (HQ) 966608 and 966976, respectively (Attachments A and B, respectively, to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by Customs 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: April 29, 2004

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

Attachments



[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966608

April 29, 2004

CLA-2 RR:CR:GC 966608 KBR

CATEGORY: Classification

TARIFF NO.: 8519.99.00, 8543.89.96.

MR. JOHN P. DONOHUE
DONOHUE & DONOHUE
232 South Fourth Street
Philadelphia, PA 19106

RE: Reconsideration of NY I87338; Karaoke Systems

DEAR MR. DONOHUE:

This is in reference to New York Ruling Letter (NY) I87338 issued by Customs National Commodity Specialist Division, New York, on November 4, 2002, with respect to the Singer Machine Co., Inc. That ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of karaoke systems imported from China. You have requested that we reconsider this ruling. We have reviewed NY I87338 and determined that the classification provided for the karaoke systems is incorrect.

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 (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107

Stat. 2057), a notice was published on March 10, 2004, Vol. 38, No. 11 of the *Customs Bulletin*, proposing to revoke NY I87338. Two comments were received in response to this notice.

FACTS:

NY I87338 concerned CDG Karaoke Systems models STVG-500 and SMVG-600, imported from China. Model STVG-500 is a device that allows the user to sing along with background music and on-screen lyrics, either alone or with a group of people, for entertainment. This floor standing device is composed of speakers, a 5.5 inch black and white video monitor capable of accepting a video signal from a VCR, a CD+Graphics player, a single cassette player/recorder, a CD-ROM, and a wired microphone, all configured in a wooden cabinet. Also included are the electrical cables necessary for connection to a power source and to a television. Along with the normal controls for the monitor, cassette player/recorder and CD player, the cabinet also has microphone volume, echo and auto voice controls and a pitch control.

The SMVG-600 is a portable karaoke machine composed of self contained speakers, a black and white monitor, a CD and CD+Graphics player, a wired microphone, a built-in video camera, a CD-ROM, all included in one housing. Also included are the necessary cables for connection to a power source and/or television. As with the STVG-500 model, along with the normal controls for the monitor, cassette player/recorder and CD player, the housing also has microphone volume, echo and auto voice controls.

You state that while karaoke systems were first introduced in the 1970's, video monitors were not added to karaoke systems until almost 30 years later. You state that the video monitor in upper level karaoke machine models comprises no more than 8-10% of the production costs. For lower level karaoke machine models, you state the video monitor comprises no more than 18-20% of the production costs.

In NY I87338, it was determined that the karaoke machines were classified in subheading 8528.22.00, HTSUS, as reception apparatus for television, whether or not incorporating radiobroadcast receivers or sound or video recording or reproducing apparatus; video monitors and video projectors: video monitors: black and white or other monochrome. We have reviewed that ruling and determined that the classification is incorrect. This ruling sets forth the correct classifications.

ISSUE:

What is the classification under the HTSUS, of karaoke machines, models STVG-500 and SMVG-600?

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). Under GRI 1, merchandise is classifiable 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 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 interpreting the headings and subheadings, Customs looks to the Harmonized Commodity Description and Coding System Explanatory Notes (ENs). Although not legally binding, they provide a commentary on the scope of each heading of the HTSUS. It is Customs practice to follow, when-

ever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

8519 Turntables, record players, cassette players and other sound reproducing apparatus, not incorporating a sound recording device:

 Other sound reproducing apparatus:

8519.99.00 Other

* * * * *

8520 Magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device:

 Other magnetic tape recorders incorporating sound reproducing apparatus:

8520.33.00 Other, cassette type

* * * * *

8528 Reception apparatus for television, whether or not incorporating radiobroadcast receivers or sound or video recording or reproducing apparatus; video monitors and video projectors:

 Video monitors:

8528.22.00 Black and white or other monochrome

* * * * *

8543 Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof:

 Other machines and apparatus:

8543.89 Other:

 Other:

 Other:

8543.89.96 Other

The articles at issue are two models of karaoke machines imported by The Singing Machine Co., Inc., models STVG-500 and SMVG-600. The devices are intended to allow the user to sing along with background music and view the lyrics for singing on the device's video monitor. There is a microphone which allows the user's voice to be transmitted and amplified to play through the device's speakers along with the background music. Noteworthy distinctions between the two models are that model STVG-500 contains a cassette player/recorder which allows the user to record his performance and model SMVG-600 contains a built in video camera but no recording capability. Taken individually, the different functions of the components of the

karaoke machine would be classified in different headings of Chapter 85, HTSUS.

Because of the machines' multiple components, NY I87338 cited GRI 3 to determine the classification of the karaoke machines. However, we must first consider classification of these multi-function articles of Chapter 85, HTSUS, pursuant to GRI 1. *See* HQ 966530 (September 4, 2003), HQ 966531 (September 4, 2003) and HQ 966072 (September 4, 2003). To classify the articles according to GRI 1, we must first look to the relevant section and chapter notes. HTSUS Section XVI, Note 3 provides:

Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

We find that the subject karaoke machines are composite machines within the meaning of Note 3. We further find that the principal function of the karaoke machines is as a sound reproduction device. The reason a person would use the instant karaoke machines is to reproduce sounds to sing along to. The additional features of a monitor which displays the words, a cassette deck to record the performance, and a built-in camera to record the performance, are all ancillary to the main function of allowing a person to sing to reproduced music. The additional features were developed well after karaoke machines were first sold. A person could, and conceivably would, fully use the instant machines for their intended purpose without using the additional features.

Customs has previously found that a basic karaoke machine (one without a cassette recorder, a monitor, or a built-in video camera) is classified in sub-heading 8519.99.00, HTSUS. *See* NY C88162 (June 9, 1998) and NY J82864 (April 3, 2003) (involving another model of "Singing Machine"). Customs also classified karaoke machines in this same provision when they included components such as cassette players, monitors or cameras. *See* NY J84858 (June 4, 2003) (karaoke machine with a cassette player), NY J88831 (September 22, 2003) (karaoke machine with a monitor) and NY I83939 (July 11, 2002) (karaoke machine with a video camera). In NY I85748 (September 5, 2002), Customs ruled that the most important component of a karaoke machine with a live action camera was determined by the sound reproducing equipment of the karaoke machine, not the accessory feature of the live action camera.

Conversely, in NY H80326 (May 3, 2001) (involving karaoke machines with several additional components notably an AM/FM radio) and NY J80054 (January 21, 2003) (involving a combination karaoke machine, color television and VCR (video cassette recorder)), Customs found that the articles were not classified pursuant to GRI 3(b) under heading 8519, HTSUS, but were classified pursuant to GRI 3(c). *See* NY F82080 (February 2, 2000) (classifying karaoke machines, AM/FM radio and cassette player/recorder similarly but without GRI 3 analysis). GRI 3(c) states that when a composite good cannot be classified pursuant to GRI 3(a) or (b) it must be classified under the heading which occurs last in numerical order among those headings which equally merit consideration. With respect to the goods in NY H80326, NY J80054, and NY F82080, the AM/FM radio feature and the color

television/VCR allow a user to use the device for a purpose other than as a karaoke machine — simply as a radio or television or video player. This is distinguishable from the instant karaoke machines because there is not one principal function for these other articles. The instant karaoke machines will realistically only be used for their karaoke ability.

Therefore, pursuant to GRI 1 and Section XVI, Note 3, we find that the principal function of the instant karaoke machines is determined by their sound reproducing function. Model SMVG-600 is classified under subheading 8519.99.00, HTSUS, as turntables, record players, cassette players and other sound reproducing apparatus, not incorporating a sound recording device, other sound reproducing apparatus, other. However, heading 8519, HTSUS, specifically excludes articles with a sound recording device. Therefore, because it has recording capability, Model STVG-500 is not classified under heading 8519, HTSUS.

You believe that heading 8520, HTSUS, should be the appropriate classification for the instant karaoke machines. However, heading 8520, HTSUS, which involves magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device, is also not appropriate for the Model STVG-500 karaoke machine. Although one component of the karaoke machine may be classified in heading 8520, HTSUS, as we have stated above, the principal function of the article is as a sound reproducing apparatus. To classify the article in heading 8520, HTSUS, would be to classify the article as if its principal function was that of a recording device, which is not the case here. Because there is no heading which *eo nomine* provides for sound reproducing apparatus with recording capability, Model STVG-500 is classified in subheading 8543.89.96, HTSUS, as electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter, other machines and apparatus, other, other, other.

HOLDING:

Karaoke machine Model SMVG-600 is classified under subheading 8519.99.0060, HTSUS, as turntables, record players, cassette players and other sound reproducing apparatus, not incorporating a sound recording device, other sound reproducing apparatus, other, other. The 2004 tariff General duty rate is “Free”. Model STVG-500 is classified in subheading 8543.89.9695, HTSUS, as electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter, other machines and apparatus, other, other, other, other, other. The 2004 tariff General duty rate is 2.6% *ad valorem*. Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY I87338 dated November 4, 2002, is **REVOKED**. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective sixty (60) days after publication in the *Customs Bulletin*.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966976

April 29, 2004

CLA-2 RR:CR:GC 966976 KBR

CATEGORY: Classification

TARIFF NO.: 8543.89.96

Ms. CHERYL SANTOS
CVS
One CVS Drive
Woonsocket, RI 02895

RE: Reconsideration of NY I85746; Karaoke Machine

DEAR Ms. SANTOS:

This is in reference to New York Ruling Letter (NY) I85746, issued to you by the Customs National Commodity Specialist Division, New York, on September 5, 2002. That ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a karaoke machine imported from China. We have reviewed NY I85746 and determined that the classification provided for the karaoke machine is incorrect.

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 (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), a notice was published on March 10, 2004, Vol. 38, No. 11 of the *Customs Bulletin*, proposing to revoke NY I85746. Two comments were received in response to this notice.

FACTS:

NY I85746 concerned Nu-Tronix Karaoke for Kids Machine model 159678, imported from China. The karaoke machine is a device that allows the user to sing along with background music, either alone or with a group of people, for entertainment. The karaoke machine is battery operated and is configured in the same housing with a cassette player/recorder. It is packaged for retail sale along with two pre-recorded audiocassette tapes, lyric sheets, instruction booklet and a microphone. Only the karaoke machine is subject to this ruling. The recording device allows the user both to play and record cassette tapes separate from the sing-a-long capability. The device has a volume control, separate controls for each function and internal speakers.

In NY I85746, it was determined that the karaoke machine was classified in subheading 8520.33.00, HTSUS, as magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device, other magnetic tape recorders incorporating sound reproducing apparatus, other, cassette type. We have reviewed that ruling and determined that the classification is incorrect. This ruling sets forth the correct classification.

ISSUE:

What is the classification under the HTSUS of the subject karaoke machine?

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). Under GRI 1, merchandise is classifiable 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 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 interpreting the headings and subheadings, Customs looks to the Harmonized Commodity Description and Coding System Explanatory Notes (ENs). Although not legally binding, they provide a commentary on the scope of each heading of the HTSUS. It is Customs practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

| | |
|------------|---|
| 8519 | Turntables, record players, cassette players and other sound reproducing apparatus, not incorporating a sound recording device: |
| | Other sound reproducing apparatus: |
| 8519.99.00 | Other |
| | * * * * * |
| 8520 | Magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device: |
| | Other magnetic tape recorders incorporating sound reproducing apparatus: |
| 8520.33.00 | Other, cassette type |
| | * * * * * |
| 8543 | Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: |
| | Other machines and apparatus: |
| 8543.90 | Other: |
| | Other: |
| | Other: |
| 8543.89.96 | Other |

The article at issue is a karaoke machine model 159678. The device is intended to allow the user to sing along with background music. There is a microphone which allows the user's voice to be transmitted and amplified to play through the device's speakers along with the background music. The karaoke machine contains a cassette player/recorder which allows the user to record his performance. Taken individually, the different functions of the components of the karaoke machine would be classified in different headings of Chapter 85, HTSUS.

Because of the machine's multiple components, NY I87338 cited GRI 3 to determine the classification of the karaoke machine. However, we must first consider classification of this multi-function article of Chapter 85, HTSUS, pursuant to GRI 1. *See* HQ 966530 (September 4, 2003), HQ 966531 (September 4, 2003) and HQ 966072 (September 4, 2003). To classify the article according to GRI 1, we must first look to the relevant section and chapter notes. HTSUS Section XVI, Note 3 provides:

Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

We find that the principal function of the instant karaoke machine is as a sound reproduction device. The reason a person would use the instant karaoke machine is to reproduce sounds to sing along to. The additional feature of a cassette deck to record the performance is ancillary to the main function of allowing a person to sing to reproduced music. A person could, and conceivably would, fully use the instant machine for its intended purpose without using the additional feature.

Customs has previously found that a basic karaoke machine (one without a cassette recorder, a monitor, or a built-in video camera) is classified in sub-heading 8519.99.00, HTSUS. *See* NY C88162 (June 9, 1998) and NY J82864 (April 3, 2003) (involving another model of "Singing Machine"). Customs also classified karaoke machines in this same provision when they included components such as cassette players, monitors or cameras. *See* NY J84858 (June 4, 2003) (karaoke machine with a cassette player), NY J88831 (September 22, 2003) (karaoke machine with a monitor) and NY I83939 (July 11, 2002) (karaoke machine with a video camera). In NY I85748 (September 5, 2002), although determined under GRI 3, Customs ruled that the most important component of a karaoke machine with a live action camera was determined by the sound reproducing equipment of the karaoke machine, not the accessory feature of the live action camera.

Conversely, in NY H80326 (May 3, 2001) (involving karaoke machines with several additional components notably an AM/FM radio) and NY J80054 (January 21, 2003) (involving a combination karaoke machine, color television and VCR (video cassette recorder)), Customs found that the articles were not classified pursuant to GRI 3(b) under heading 8519, HTSUS, but were classified pursuant to GRI 3(c). *See* NY F82080 (February 2, 2000) (classifying karaoke machines, AM/FM radio and cassette player/recorder similarly but without GRI 3 analysis). GRI 3(c) states that when a composite good cannot be classified pursuant to GRI 3(a) or (b) it must be classified under the heading which occurs last in numerical order among those headings which equally merit consideration. With respect to the goods in NY H80326, NY J80054, and NY F82080, the AM/FM radio feature and the color television/VCR allow a user to use the device for a purpose other than as a karaoke machine — simply as a radio or television or video player. This is distinguishable from the instant karaoke machine because there is not one principal function for these other articles. The instant karaoke machine will realistically only be used for its karaoke ability.

Therefore, pursuant to GRI 1 and Section XVI, Note 3, we find that the principal function of the instant karaoke machine is determined by its sound reproducing function. Therefore, a basic karaoke machine would be classified under subheading 8519.99.00, HTSUS, as turntables, record players, cassette players and other sound reproducing apparatus, not incorporating a sound recording device, other sound reproducing apparatus, other. However, heading 8519, HTSUS, specifically excludes articles with a sound recording device. Therefore, because it has recording capability, the instant karaoke machine, model 159678, is not classified under heading 8519, HTSUS.

NY I85746 ruled that the instant karaoke machine was classified in heading 8520, HTSUS. However, heading 8520, HTSUS, which involves magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device, is also not appropriate for the model 159678 karaoke machine. Although one component of the karaoke machine may be classified in heading 8520, HTSUS, as we have stated above, the principal function of the article is as a sound reproducing apparatus. To classify the article in heading 8520, HTSUS, would be to classify the article as if its principal function was that of a recording device, which is not the case here. Because there is no heading which *eo nomine* provides for sound reproducing apparatus with recording capability, model 159678 is classified in subheading 8543.89.96, HTSUS, as electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter, other machines and apparatus, other, other, other, other.

HOLDING:

Karaoke machine Model 159678 is classified in subheading 8543.89.9695, HTSUS, as electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter, other machines and apparatus, other, other, other, other, other. The 2004 tariff General duty rate is 2.6% *ad valorem*. Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY I85746 dated September 5, 2002, is **REVOKED**. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective sixty (60) days after publication in the *Customs Bulletin*.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

REVOCATION OF RULING LETTERS AND REVOCATION OF
TREATMENT RELATING TO THE TARIFF CLASSIFICATION
OF **PAPER TRIMMERS**

AGENCY: U.S. Customs and Border Protection, Department of
Homeland Security

ACTION: Notice of revocation of tariff classification ruling letters
and revocation of any treatment relating to the classification of pa-
per trimmers.

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 U.S. Customs and Border Protection (Customs) is revoking four ruling letters relating to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of certain paper trimmers. Similarly, Customs is revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed actions was published in the Customs Bulletin on September 10, 2003. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after July 18, 2004.

FOR FURTHER INFORMATION CONTACT: David Salkeld, General Classification Branch, at (202) 572–8781.

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, a notice was published in the Customs Bulletin on September 10, 2003, proposing to revoke four ruling letters relating to the tariff classification of certain paper trimmers: Headquarters Ruling Letter (HQ) 964727,

dated February 21, 2001; HQ 964947, dated June 6, 2001; New York Ruling Letter (NY) G83507, dated November 6, 2000; and NY G84202, dated November 30, 2000. No comments were received in response to this notice.

As stated in the proposed notice, this revocation 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 (19 U.S.C. 1625 (c)(2)), as amended by section 623 of Title VI, Customs is revoking 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 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 decision on this notice.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is revoking HQ 964727, HQ 964947, NY G83507, and NY G84202, and is revoking any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise set forth in HQs 966582, 966583, 966604 and 966605 (Attachments A–D respectively). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions that are contrary to the determination set forth in this notice.

In accordance with 19 U.S.C. 1625(c), these rulings will become effective 60 days after publication in the Customs Bulletin.

DATED: April 29, 2004

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966582

April 29, 2004

CLA-2 RR:CR:GC 966582 DSS

CATEGORY: Classification

TARIFF NO.: 8441.10.0000

MR. THOMAS J. O'DONNELL
RODRIGUEZ O'DONNELL ROSS FUERST GONZALEZ & WILLIAMS
20 North Wacker Drive
Suite 1416
Chicago, IL 60606

RE: Revocation of HQ 964727; Paper Trimmers

DEAR MR. O'DONNELL:

This letter is pursuant to U.S. Customs and Border Protection (Customs) reconsideration of Headquarters Ruling letter (HQ) 964727, dated February 21, 2001, which was issued with respect to Protest 2704-00-100731. We have reviewed the classification in HQ 964727 and have determined that it is incorrect. This ruling sets forth the correct classification. This ruling has no effect on the entries which were the subject of Protest 2704-00-100731.

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), a notice was published on September 10, 2003, in the CUSTOMS BULLETIN, Volume 37, Number 37, proposing to modify HQ 964727. No comments were received in response to this notice.

FACTS:

In HQ 964727, Customs classified a certain paper trimmer, imported by Quartet Manufacturing, a division of General Binding Corporation (GBC). The paper trimmer at issue, the Quartet GT II Series Trimmer (15"), was described in HQ 964727 as follows:

. . . the stainless steel self-sharpening blades and the aluminum die-cast metal handle assure a clean cut every time. Solidly constructed of a 12 by 15 inch wood composite base with a neutral vinyl laminated surface. Features include convenient metric and imperial measurements, safety rail and handle lock. Cuts up to 15 sheets.

This paper trimmer is a so-called arc-type paper trimmer because the cutting blade is attached to a handle that moves up and down in an arc. In HQ 964727, Customs classified the subject paper trimmer under subheading 8214.90.90, HTSUSA, which provides for "Other articles of cutlery (for example, hair clippers, butchers' knives or kitchen cleavers, chopping or mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files); base metal parts thereof: Other: Other (including parts)."

ISSUE:

Whether the instant paper trimmers are classified under heading 8214, HTSUSA, as other articles of cutlery, or under heading 8441, HTSUSA, as other machinery for making up paper, cutting machines.

LAW AND ANALYSIS:

Classification under the HTSUSA 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.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HTSUSA and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUSA provisions under consideration are as follows:

| | |
|--------------|---|
| 8214 | Other articles of cutlery (for example, hair clippers, butchers' knives or kitchen cleavers, chopping or mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files); base metal parts thereof: |
| 8214.90 | Other: |
| 8214.90.90 | Other (including parts) |
| | * * * * |
| 8441 | Other machinery for making up paper pulp, paper or paper-board, including cutting machines of all kinds, and parts thereof: |
| 8441.10.0000 | Cutting machines |

Note 1(k) to Section XVI, HTSUSA, provides: "This section [Section XVI, which includes Chapter 84, HTSUSA] does not cover: . . . Articles of chapter 82 or 83." Thus, if a good is described in Chapter 82 or 83, HTSUSA, it is not classified in Chapter 84, HTSUSA. Accordingly, if the paper trimmer is described in heading 8214, HTSUSA, as other articles of cutlery, classification in heading 8441 is precluded. On the other hand, Note 1(f) to Section XV, HTSUSA, excludes articles of Section XVI (including Chapter 84), from classification in Section XV (including Chapter 82), so if the paper trimmer falls under classification in heading 8441, as a cutting machine for making up paper, then classification under heading 8214 is precluded.

As indicated in HQ 964727, heading 8214, HTSUSA, covers other articles of cutlery. "Cutlery" is defined in the *Random House Unabridged Dictionary* (1993) as: "cutting instruments collectively, esp. knives for cutting food . . ." It is defined in *Webster's Third New International Dictionary* (1986) as: "edged or cutting tools (as shears, knives, surgical instruments) . . ." In HQ 964727, we concluded that the paper trimmer was a paper knife attached to a block.

As was noted in HQ 964727, there was no evidence presented that the articles were commonly or commercially known or advertised as machines. New information has been presented to Customs, however, that has caused us to view the classification in HQ 964727 as incorrect. You have presented

evidence that arc-motion cutters and trimmers, such as the one at issue, are commercially known as “guillotine” type cutters and trimmers. Customs has confirmed this through a search of Internet sources. The EN for heading 8441, identifies “guillotines” as an exemplar of the types of machinery included in that heading. Customs has previously interpreted “guillotine” type cutters to be limited to the type of devices which cut or trim by means of a blade descending vertically to perform the cutting operation. See New York Ruling Letter H84946, dated August 30, 2001. Customs has confirmed that dictionary definitions of the term “guillotine” indicate that it is a machine. See, e.g., *Oxford English Dictionary and Webster’s Third International Dictionary*.

Insofar as the arc-motion trimmer at issue is commercially identified and known as a “guillotine” type, that “guillotines” are commonly known as machines, and the ENs identify “guillotines” as falling under heading 8441, Customs is now of the view that the instant paper trimmer is classified under subheading 8441.10.0000, HTSUSA.

Accordingly, pursuant to Note 1(f) to Chapter XV, excerpted above, classification in heading 8214 is precluded.

As indicated above, this ruling has no effect on the entries which were the subject of Protest 2701–00–100731, as Customs no longer has jurisdiction over those entries. See *San Francisco Newspaper Printing Co. v. United States*, 620 F. Supp. 738 (CIT 1985).

HOLDING:

In accordance with the above discussion, the correct classification for the instant arc-motion paper trimmer is subheading 8441.10.0000, HTSUSA, which provides for “Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds, and parts thereof: Cutting machines.” The 2004 general rate of duty is free.

EFFECT ON OTHER RULINGS:

HQ 964727 is REVOKED. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966583

April 29, 2004

CLA-2 RR:CR:GC 966583 DSS

CATEGORY: Classification

TARIFF NO.: 8441.10.0000

DICK APPLEBAUM CO.
331 N. Maitland Avenue #D7
Maitland, FL 32751

RE: Revocation of HQ 964947; Paper Trimmers

To Whom It May Concern:

This letter is pursuant to U.S. Customs and Border Protection (Customs) reconsideration of Headquarters Ruling letter (HQ) 964947, dated June 6, 2001, which was issued with respect to Protest 3001-97-100286. We have reviewed the classification in HQ 964947 and have determined that it is incorrect. This ruling sets forth the correct classification. This ruling has no effect on the entries which were the subject of Protest 3001-97-100286.

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), a notice was published on September 10, 2003, in the CUSTOMS BULLETIN, Volume 37, Number 37, proposing to revoke HQ 964947. No comments were received in response to this notice.

FACTS:

In HQ 964947, Customs classified a certain paper trimmer, imported by Dick Applebaum Co. The paper trimmer at issue was described in HQ 964947 as follows:

The paper trimmers consist of a flat plastic cutting surface and an arm attached at one end to the cutting surface. The arm contains a metal cutting blade. Affixed to the side of the cutting surface closest to the blade are flat metal and plastic bars which serve to hold down the sheet of paper being trimmed. The cutting surface, which is approximately five inches wide and seven inches long, is marked with a grid for measurement. After the sheet of paper has been positioned, the user manually pulls down the cutting arm to trim the paper.

This paper trimmer is a so-called arc-type paper trimmer because the cutting blade is attached to a handle that moves up and down in an arc. In HQ 964947, Customs classified the subject paper trimmer under subheading 8214.90.90, HTSUS, which provides for "Other articles of cutlery (for example, hair clippers, butchers' knives or kitchen cleavers, chopping or mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files); base metal parts thereof: Other: Other (including parts)."

ISSUE:

Whether the instant paper trimmers are classified under heading 8214, HTSUSA, as other articles of cutlery, or under heading 8441, HTSUSA, as other machinery for making up paper, cutting machines.

LAW AND ANALYSIS:

Classification under the HTSUSA 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.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HTSUSA and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUSA provisions under consideration are as follows:

| | |
|--------------|---|
| 8214 | Other articles of cutlery (for example, hair clippers, butchers' knives or kitchen cleavers, chopping or mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files); base metal parts thereof: |
| 8214.90 | Other: |
| 8214.90.90 | Other (including parts) |
| | * * * * |
| 8441 | Other machinery for making up paper pulp, paper or paper-board, including cutting machines of all kinds, and parts thereof: |
| 8441.10.0000 | Cutting machines |

Note 1(k) to Section XVI, HTSUSA, provides: "This section [Section XVI, which includes Chapter 84, HTSUSA] does not cover: . . . Articles of chapter 82 or 83." Thus, if a good is described in Chapter 82 or 83, HTSUSA, it is not classified in Chapter 84, HTSUSA. Accordingly, if the paper trimmer is described in heading 8214, HTSUSA, as other articles of cutlery, classification in heading 8441 is precluded. On the other hand, Note 1(f) to Section XV, HTSUSA, excludes articles of Section XVI (including Chapter 84), from classification in Section XV (including Chapter 82), so if the paper trimmer falls under classification in heading 8441, as a cutting machine for making up paper, then classification under heading 8214 is precluded.

As indicated in HQ 964947, heading 8214, HTSUSA, covers other articles of cutlery. "Cutlery" is defined in the *Random House Unabridged Dictionary* (1993) as: "cutting instruments collectively, esp. knives for cutting food . . ." It is defined in *Webster's Third New International Dictionary* (1986) as: "edged or cutting tools (as shears, knives, surgical instruments) . . ." In HQ 964947, we concluded that the paper trimmer was a paper knife attached to a block.

New information has been presented to Customs, however, that has caused us to view the classification in HQ 964947 as incorrect. New information indicates that arc-motion cutters and trimmers, such as the one at issue, are commercially known as "guillotine" type cutters and trimmers. Cus-

toms has confirmed this through a search of Internet sources. The EN for heading 8441, identifies “guillotines” as an exemplar of the types of machinery included in that heading. Customs has previously interpreted “guillotine” type cutters to be limited to the type of devices which cut or trim by means of a blade descending vertically to perform the cutting operation. See New York Ruling Letter H84946, dated August 30, 2001. Customs has confirmed that dictionary definitions of the term “guillotine” indicate that it is a machine. See, e.g., *Oxford English Dictionary and Webster’s Third International Dictionary*.

Insofar, as the arc-motion trimmers at issue are commercially identified and known as a “guillotine” type, that “guillotines” are commonly known as machines, and the ENs identify “guillotines” as falling under heading 8441, Customs is now of the view that the instant paper trimmer is classifiable under subheading 8441.10.0000, HTSUSA.

Accordingly, pursuant to Note 1(f) to Chapter XV, excerpted above, classification in heading 8214 is precluded.

As indicated above, this ruling has no effect on the entries which were the subject of Protest 3001-97-100286, as Customs no longer has jurisdiction over those entries. See *San Francisco Newspaper Printing Co. v. United States*, 620 F. Supp. 738 (CIT 1985).

HOLDING:

In accordance with the above discussion, the correct classification for the instant arc-motion paper trimmers is subheading 8441.10.0000, HTSUSA, which provides for “Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds, and parts thereof: Cutting machines.” The 2004 general rate of duty is free.

EFFECT ON OTHER RULINGS:

HQ 964947 is REVOKED. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 966604

April 29, 2004

CLA-2 RR:CR:GC 966604 DSS

CATEGORY: Classification

TARIFF NO.: 8441.10.0000

MR. JAMES P. SULLIVAN
SULLIVAN & LYNCH, P.C.
156 State Street
Boston, MA 02109-2508

RE: Revocation of NY G83507; Paper Trimmers

DEAR MR. SULLIVAN:

This letter is pursuant to U.S. Customs and Border Protection (Customs) reconsideration of New York Ruling letter (NY) G83507, dated November 6, 2000. We have reviewed the classification in NY G83507 and have determined that it is incorrect. This ruling sets forth the correct classification.

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), a notice was published on September 10, 2003, in the CUSTOMS BULLETIN, Volume 37, Number 37, proposing to modify NY G83507. No comments were received in response to this notice.

FACTS:

In NY G83507, Customs classified a certain paper trimmer from China. The paper trimmer at issue was described in NY G83507 as follows:

The sample you submitted is the Personal Paper Trimmer (item number 26403). It is made primarily of lightweight plastic, rests upon a tabletop, and measures approximately 14 inches long by 3.5 inches wide. The trimmer operates manually by sliding a ¼-inch metal blade across its length to cut up to three sheets of paper at a time. It also has a pull-out ruler for precise measurements.

This paper trimmer is a so-called rotary paper trimmer because the cutting blade rotates around an axis as it slides across the paper. In NY G83507, Customs classified the subject paper trimmer under subheading 8214.90.90, HTSUS, which provides for "Other articles of cutlery (for example, hair clippers, butchers' knives or kitchen cleavers, chopping or mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files); base metal parts thereof: Other: Other (including parts)."

ISSUE:

Whether the instant paper trimmer is classified under heading 8214, HTSUSA, as other articles of cutlery, or under heading 8441, HTSUSA, as other machinery for making up paper, cutting machines.

LAW AND ANALYSIS:

Classification under the HTSUSA 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 tar-

iff 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.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HTSUSA and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUSA provisions under consideration are as follows:

| | |
|--------------|---|
| 8214 | Other articles of cutlery (for example, hair clippers, butchers' knives or kitchen cleavers, chopping or mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files); base metal parts thereof: |
| 8214.90 | Other: |
| 8214.90.90 | Other (including parts) |
| | * * * * |
| 8441 | Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds, and parts thereof: |
| 8441.10.0000 | Cutting machines |

Note 1(k) to Section XVI, HTSUSA, provides: "This section [Section XVI, which includes Chapter 84, HTSUSA] does not cover: . . . Articles of chapter 82 or 83." Thus, if a good is described in Chapter 82 or 83, HTSUSA, it is not classified in Chapter 84, HTSUSA. Accordingly, if the paper trimmer is described in heading 8214, HTSUSA, as other articles of cutlery, classification in heading 8441 is precluded. On the other hand, Note 1(f) to Section XV, HTSUSA, excludes articles of Section XVI (including Chapter 84), from classification in Section XV (including Chapter 82), so if the paper trimmer falls under classification in heading 8441, as a cutting machine for making up paper, then classification under heading 8214 is precluded.

Heading 8214, HTSUSA, covers other articles of cutlery. "Cutlery" is defined in the *Random House Unabridged Dictionary* (1993) as: "cutting instruments collectively, esp. knives for cutting food . . ." It is defined in *Webster's Third New International Dictionary* (1986) as: "edged or cutting tools (as shears, knives, surgical instruments) . . ." In NY G83507, we concluded that the paper trimmer was an article of cutlery.

New information has been presented to Customs, however, that has caused us to view the classification in NY G83507 as incorrect. New information indicates that arc-motion cutters and trimmers, which are similar in many design elements and principal use to rotary cutters, are commercially known as "guillotine" type cutters and trimmers. Customs had confirmed this through a search of Internet sources. The EN for heading 8441, identifies "guillotines" as an exemplar of the types of machinery included in that heading. Customs has previously interpreted "guillotine" type cutters to be limited to the type of devices which cut or trim by means of a blade descend-

ing vertically to perform the cutting operation. See NY H84946, dated August 30, 2001. Customs has confirmed that dictionary definitions of the term "guillotine" indicate that it is a machine. See, e.g., *Oxford English Dictionary* and *Webster's Third International Dictionary*.

Futhermore, it appears that the instant paper trimmer has sufficient mechanical capability to be considered a machine for tariff purposes. Thus, the instant rotary paper trimmer belongs to the class or kind of machinery for making up paper (*i.e.*, is a machine for cutting paper). Customs is now of the view that the instant paper trimmer is classified under subheading 8441.10.0000, HTSUSA.

Accordingly, pursuant to Note 1(f) to Chapter XV, excerpted above, classification in heading 8214 is precluded.

HOLDING:

In accordance with the above discussion, the correct classification for the instant rotary paper trimmer is subheading 8441.10.0000, HTSUSA, which provides for "Other machinery for making up paper pulp, paper or paper-board, including cutting machines of all kinds, and parts thereof: Cutting machines." The 2004 general rate of duty is free.

EFFECT ON OTHER RULINGS:

NY G83507 is REVOKED. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.



[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966605
April 29, 2004
CLA-2 RR:CR:GC 966605 DSS
CATEGORY: Classification
TARIFF NO.: 8441.10.0000

MS. SUZANNE LORBIECKI
FISKARS, INC.
7811 W. Stewart Avenue
P. O. Box 8027
Wausau, WI 54402

RE: Revocation of NY G84202; Paper Trimmers

DEAR MS. LORBIECKI:

This letter is pursuant to U.S. Customs and Border Protection (Customs) reconsideration of New York Ruling letter (NY) G84202, dated November 30, 2000. We have reviewed the classification in NY G84202 and have determined that it is incorrect. This ruling sets forth the correct classification.

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), a notice was published on September 10, 2003, in the CUSTOMS BULLETIN, Volume 37, Number 37, proposing to modify NY G84202. No comments were received in response to this notice.

FACTS:

In NY G84202, Customs classified certain paper trimmers from Mexico. The paper trimmers at issue were described in NY G84202 as follows:

The samples you provided are two Fiskars paper trimmers, which will be packaged together for retail sale. Item 95808994 is the Fiskars 12-inch/30 cm Rotary Paper Trimmer. It consists of a non-skid plastic base holding a guide rail. A plastic blade holder containing a rotating metal blade is attached to the rail. By placing cutting material on the base under the rail, a user can trim the material by pushing the blade across it.

Item 95909494 is the Fiskars Personal Paper Trimmer. It is similar to the other trimmer, but is smaller and designed to be carried in a standard ring binder. Both of these items are intended to be used on a desktop or similar work surface, and not in the hand. Both bases are printed with a measuring grid as a guide, but the principal function of the items is to cut paper.

The first paper trimmer is a rotary paper trimmer because the cutting blade rotates around an axis as it slides across the paper. The other paper trimmer functions by the user sliding a small, straight blade across the paper similar to the rotary trimmer. In NY G84202, Customs classified the subject paper trimmers under subheading 8214.90.90, HTSUS, which provides for "Other articles of cutlery (for example, hair clippers, butchers' knives or kitchen cleavers, chopping or mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files); base metal parts thereof: Other: Other (including parts)."

ISSUE:

Whether the instant paper trimmers are classified under heading 8214, HTSUSA, as other articles of cutlery, or under heading 8441, HTSUSA, as other machinery for making up paper, cutting machines.

LAW AND ANALYSIS:

Classification under the HTSUSA 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.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HTSUSA and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUSA provisions under consideration are as follows:

| | |
|--------------|---|
| 8214 | Other articles of cutlery (for example, hair clippers, butchers' knives or kitchen cleavers, chopping or mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files); base metal parts thereof: |
| 8214.90 | Other: |
| 8214.90.90 | Other (including parts) * * * * |
| 8441 | Other machinery for making up paper pulp, paper or paper-board, including cutting machines of all kinds, and parts thereof: |
| 8441.10.0000 | Cutting machines |

Note 1(k) to Section XVI, HTSUSA, provides: "This section [Section XVI, which includes Chapter 84, HTSUSA] does not cover: . . . Articles of chapter 82 or 83." Thus, if a good is described in Chapter 82 or 83, HTSUSA, it is not classified in Chapter 84, HTSUSA. Accordingly, if the paper trimmers are described in heading 8214, HTSUSA, as other articles of cutlery, classification in heading 8441 is precluded. On the other hand, Note 1(f) to Section XV, HTSUSA, excludes articles of Section XVI (including Chapter 84), from classification in Section XV (including Chapter 82), so if the paper trimmers fall under classification in heading 8441, as a cutting machine for making up paper, then classification under heading 8214 is precluded.

Heading 8214, HTSUSA, covers other articles of cutlery. "Cutlery" is defined in the *Random House Unabridged Dictionary* (1993) as: "cutting instruments collectively, esp. knives for cutting food. . . ." It is defined in *Webster's Third New International Dictionary* (1986) as: "edged or cutting tools (as shears, knives, surgical instruments). . . ." In NY G84202, we concluded that the paper trimmers were articles of cutlery.

New information has been presented to Customs, however, that has caused us to view the classification in NY G84202 as incorrect. New information indicates that arc-motion cutters and trimmers, which are similar in many design elements and principal use to rotary cutters, are commercially known as "guillotine" type cutters and trimmers. Customs had confirmed this through a search of Internet sources. The EN for heading 8441, identifies "guillotines" as an exemplar of the types of machinery included in that heading. Customs has previously interpreted "guillotine" type cutters to be limited to the type of devices which cut or trim by means of a blade descending vertically to perform the cutting operation. See NY H84946, dated August 30, 2001. Customs has confirmed that dictionary definitions of the term "guillotine" indicate that it is a machine. See, e.g., *Oxford English Dictionary and Webster's Third International Dictionary*.

Furthermore, it appears that the instant paper trimmers have sufficient mechanical capability to be considered machines for tariff purposes. Thus, the instant paper trimmers belong to the class or kind of machinery for making up paper (*i.e.*, they are machines for cutting paper). Customs is now of the view that the instant paper trimmers are classified under subheading 8441.10.0000, HTSUSA.

Accordingly, pursuant to Note 1(f) to Chapter XV, excerpted above, classification in heading 8214 is precluded.

HOLDING:

In accordance with the above discussion, the correct classification for the instant rotary paper trimmers is subheading 8441.10.0000, HTSUSA, which provides for "Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds, and parts thereof: Cutting machines." The 2004 general rate of duty is free.

EFFECT ON OTHER RULINGS:

NY G84202 is REVOKED. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

John Elkins for MYLES B. HARMON,
Director,
Commercial Rulings Division.

**REVOCATION OF RULING LETTER RELATING TO
TARIFF CLASSIFICATION OF TENNIS BRIEFS**

AGENCY: Bureau of Customs and Border Protection; Department of Homeland Security.

ACTION: Notice of revocation of one tariff classification ruling letter and treatment relating to the classification of tennis briefs.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), this notice advises interested parties that Customs and Border Protection (CBP) is revoking New York Ruling Letter (NY) 869725, dated January 8, 1992, relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of a women's tennis panty/brief. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed revocation was published in the *Customs Bulletin* of December 11, 2002, Vol. 36, No. 50. No comments were received. Publication of the final version of this notice was inadvertently overlooked.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after July 18, 2004.

FOR FURTHER INFORMATION CONTACT: Beth Safeer, Textiles Branch: (202) 572-8825.

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 CBP 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 CBP 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 CBP 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, a notice proposing to revoke NY 869725 was published on December 11, 2002, in Vol. 36, No. 50 of the *Customs Bulletin*.

As stated in the proposed notice, this revocation will cover any rulings on this merchandise, which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, an internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period. No comments were received.

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, CBP is revoking any treatment previously accorded by CBP 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, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer’s or CBP’s previous interpretation of the HTSUSA. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer’s failure to advise CBP of substantially identical merchandise or of a specific ruling not identified in the proposed 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 this notice.

In NY 869725 CBP classified a tennis brief/panty under subheading 6108.21.0010, HTSUSA, which provides for “Women’s or girls’

slips, petticoats, briefs, panties, night-dresses, pajamas, negligees, bathrobes, dressing gowns and similar articles, knitted or crocheted: Briefs and panties: Of Cotton: Women's." Based on our analysis of the scope of the terms of the heading in 6108, HTSUSA, and 6114, HTSUSA, the Legal Notes, and the Explanatory Notes, tennis briefs of the type subject to this notice, are classifiable in subheading 6114.20.0060, HTSUSA, which provides for "Other garments, knitted or crocheted: Of cotton: Other: Women's or girls'." The proposed ruling inadvertently classified the merchandise as "of man-made fibers." It is clear, however, with a fiber content that is 92 percent cotton, the merchandise is properly classified as "of cotton."

Pursuant to 19 U.S.C. 1625 (c)(1), CBP is revoking NY 869725, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in ruling letter HQ 965959 (Attachment). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical merchandise.

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

DATED: April 29, 2004

Cynthia Reese for MYLES HARMON,
Director,
Commercial Rulings Division.

Attachment

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 965959
April 29, 2004
CLA-2 RR:CR:TE 965959 BAS
CATEGORY: Classification
TARIFF NO.: 6114.20.0060

MR. CHARLES MERENDINO
MERSANT INTERNATIONAL LTD.
158-12 Rockaway Boulevard
Jamaica, NY 11434

RE: Revocation of NY 869725, dated January 8, 1992; Classification of a tennis brief; HQ 965069, dated September 18, 2002, Incorporated by Reference.

DEAR MR. MERENDINO:

This is in reference to New York Ruling Letter (NY) 869725, issued to you on January 8, 1992, in response to your letter of December 4, 1991, on behalf of Ellesse USA Inc., to the U.S. Customs Service, requesting a binding classification ruling under the Harmonized Tariff Schedule of the United States (HTSUS) for a tennis brief/panty.

In NY 869725, a knit ninety-two percent cotton and eight percent spandex women's tennis brief/panty was classified under subheading 6108.21.0010, HTSUSA, which provides for women's or girls' slips, petticoats, briefs, panties . . . and similar articles, knitted or crocheted.

Upon review of the ruling, the Bureau of Customs and Border Protection (CBP) has determined that the merchandise was erroneously classified. This ruling letter revokes NY 869725 and sets forth the correct classification determination.

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 revocation of NY 869725, as described below, was published in the Customs Bulletin, Volume 36, Number 50, on December 11, 2002. CBP received no comments during the notice and comment period that closed on January 10, 2003. Final publication of the notice was inadvertently overlooked.

FACTS:

The merchandise under consideration is women's tennis briefs, styles A3001 (Delia) and A3000 (Diane). The style A3001 (Delia) is constructed from ninety-two percent cotton and eight percent spandex knit fabric and has elasticized waist and leg openings and a lined cotton crotch. Style A3000 (Diane) is identical to style A3001, except that it is manufactured in assorted solid colors.

ISSUE:

Are the subject tennis briefs classifiable as similar to undergarments including briefs and panties under heading 6108, HTSUSA, or as other knitted or crocheted garments, in heading 6114, HTSUS?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). 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.

The classification of substantially similar merchandise was addressed in HQ 965069, dated September 18, 2002. The women's garments composed of ninety-two percent knit cotton and eight percent spandex, style A3001 (Delia) and style A3000 (Diane), are substantially similar in construction and function to the women's cheerleading brief classified in HQ 965069. While your initial letter stated that the tennis panty/brief at issue was designed to be worn as underwear by tennis players, research on the function of tennis panties indicates that they function in a substantially similar fashion to cheerleading briefs. Like cheerleading briefs, tennis briefs are most often worn under a short skirt. Unlike underwear, they are intended to be exposed to view when the wearer is dressed for appearance in public. While the description of the subject merchandise does not state that the panty has a pocket for tennis balls, most tennis panties also serve to store balls and are therefore exposed to public view when the wearer reaches for a ball.

In HQ 965069, it was determined that the cheerleading brief, composed of 100 percent nylon knit fabric, is classifiable in subheading 6114.30.3070,

HTSUSA, which provides for "Other garments, knitted or crocheted: Of man-made fibers: Other: Other: Women's or girls'." The legal reasoning and analysis employed in HQ 965069 is attached to and made a part of this ruling letter. As the subject merchandise is substantially similar to the merchandise addressed in the aforementioned ruling, the merchandise would be classified accordingly.

HOLDING:

NY 869725, dated January 8, 1992, is hereby revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

The woman's tennis brief/panty (styles A3000 and A3001) composed of ninety-two percent cotton and eight percent spandex knit fabric is properly classified in 6114.20.0060, HTSUSA, which provides for "Other garments, knitted or crocheted: Of cotton: Other: Women's or girls'." The general column one rate of duty is 10.8 percent *ad valorem*. The textile quota category applicable to this provision is 359. Headquarters Ruling Letter 965069 is attached to and made part of this ruling letter.

The designated textile and apparel category 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 renegotiations and changes, to obtain the most current information available, we suggest your client check, close to the time of shipment, the Textile Status Report for Absolute Quotas, previously available on the Customs Electronic Bulletin Board (CEBB) which is now available on the CBP website at www.cbp.gov.

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

Cynthia Reese for MYLES B. HARMON,
Director,
Commercial Rulings Division.