

U.S. Customs and Border Protection

General Notices

DATES AND DRAFT AGENDA OF THE FORTY-FIRST SESSION OF THE HARMONIZED SYSTEM COMMITTEE OF THE WORLD CUSTOMS ORGANIZATION

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security, and U.S. International Trade Commission.

ACTION: Publication of the dates and draft agenda for the forty-first session of the Harmonized System Committee of the World Customs Organization.

SUMMARY: This notice sets forth the dates and draft agenda for the next session of the Harmonized System Committee of the World Customs Organization.

DATE: February 5, 2008

FOR FURTHER INFORMATION CONTACT: Joan A. Jackson, Staff Assistant, Tariff Classification and Marking Branch, U.S. Customs and Border Protection (202-572-8831), or David Beck, Director, Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission (202-205-2592).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The United States is a contracting party to the International Convention on the Harmonized Commodity Description and Coding System (“Harmonized System Convention”). The Harmonized Commodity Description and Coding System (“Harmonized System”), an international nomenclature system, forms the core of the U.S. tariff, the Harmonized Tariff Schedule of the United States. The Harmonized System Convention is under the jurisdiction of the World Customs Organization (established as the Customs Cooperation Council).

Article 6 of the Harmonized System Convention establishes a Harmonized System Committee (“HSC”). The HSC is composed of representatives from each of the contracting parties to the Harmonized System Convention. The HSC’s responsibilities include issuing clas-

sification decisions on the interpretation of the Harmonized System. Those decisions may take the form of published tariff classification opinions concerning the classification of an article under the Harmonized System or amendments to the Explanatory Notes to the Harmonized System. The HSC also considers amendments to the legal text of the Harmonized System. The HSC meets twice a year in Brussels, Belgium. The next session of the HSC will be the forty-first and it will be held from March 10, 2008 to March 20, 2008.

In accordance with section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418), the Department of Homeland Security, represented by U.S. Customs and Border Protection, the Department of Commerce, represented by the Census Bureau, and the U.S. International Trade Commission (“ITC”), jointly represent the U.S. government at the sessions of the HSC. The Customs and Border Protection representative serves as the head of the delegation at the sessions of the HSC.

Set forth below is the draft agenda for the next session of the HSC. Copies of available agenda-item documents may be obtained from either Customs and Border Protection or the ITC. Comments on agenda items may be directed to the above-listed individuals.

GAIL A. HAMILL,
Chief,
Tariff Classification and Marking Branch.

Attachment





WORLD CUSTOMS ORGANIZATION
 ORGANISATION MONDIALE DES DOUANES
 Established in 1952 as the Customs Co-operation Council
 Créée en 1952 sous le nom de Conseil de coopération douanière

HARMONIZED SYSTEM COMMITTEE NC1250E1a
 - O. Eng.
 41st Session
 -

Brussels, 14 January 2008.

DRAFT AGENDA FOR THE 41ST SESSION
 OF THE HARMONIZED SYSTEM COMMITTEE

From : Monday 10 March 2008 (11.00 a.m.)
To : Thursday 20 March 2008

N.B. : Wednesday 5 March (10.00 a.m.) to Friday 7 March 2008 : Presessional Working Party (to examine the questions under Agenda Item VII)

Monday 10 March 2008 (9.30 a.m. – 10.30 a.m.) : Adoption of the Report of the 36th Session of the Review Sub-Committee

I. ADOPTION OF THE AGENDA

1. Draft Agenda NC1250E1a
2. Draft Timetable NC1251B1a

II. REPORT BY THE SECRETARIAT

1. Position regarding Contracting Parties to the HS Convention and related matters NC1253E1a
2. Report on the last meeting of the Policy Commission (58th Session) NC1254E1a
3. Approval of decisions taken by the Harmonized System Committee at its 40th Session NG0134E1a
 NC1252E1a
4. Capacity building activities of the Nomenclature and Classification Sub-Directorate NC1255E1a
5. Co-operation with other international organisations NC1256E1a
6. New information provided on the WCO Web site NC1257E1a

NC1250E1a

7. Other

III. GENERAL QUESTIONS

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|----|---|---|
| 1. | Possible amendment of Article 8 of the HS Convention with a view to removing the Council from its purely administrative role with regard to HS reservations, and to making the fast-track procedure the default reservation procedure | NC1248E1b Annex C/2 (HSC/40) NC1258E1a |
| 2. | Updating of the Table establishing a correlation between the Harmonized System and selected international conventions | NC1259E1a |

IV. RECOMMENDATIONS

- | | | |
|----|---|-----------|
| 1. | Draft Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings for substances controlled under the Convention on the Prohibition of the development, production, stockpiling and use of Chemical Weapons and on their destruction | NC1260E1a |
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V. REPORT OF THE SCIENTIFIC SUB-COMMITTEE

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|----|--|-----------|
| 1. | Report of the 23 rd Session of the Scientific Sub-Committee | NS0167E1a |
| 2. | Matters for decision | NC1261E1a |

VI. REPORT OF THE REVIEW SUB-COMMITTEE

- | | | |
|----|---|------------------|
| 1. | Report of the 36 th Session of the Review Sub-Committee | NR0722E1A B1b |
| 2. | Matters for decision | NC1262E1a |
| 3. | Classification of passengers boarding bridges | NC1263E1a |
| 4. | Classification of the biological dual-use items of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction) | NC1264E1a |

VII. REPORT OF THE PRESESSIONAL WORKING PARTY

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|----|--|----------------------|
| 1. | Amendments to the Compendium of Classification Opinions to reflect the classification of frozen chicken cuts with addition of salt in subheading 0210.99 | NC1265E1a Annex A |
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2.

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| | | NC1250E1a |
| 2. | Amendments to the Compendium of Classification Opinions to reflect the classification of dried tea flowers in subheading 0902.20 | NC1265E1a Annex B |
| 3. | Amendments to the Compendium of Classification Opinions to reflect the classification of Canola oil flavoured with chilli pepper and black pepper in subheading 1517.90 | NC1265E1a Annex C |
| 4. | Amendments to the Compendium of Classification Opinions to reflect the classification of "Taimbé" in heading 22.08 (Secretariat to establish appropriate subheading) | NC1265E1a Annex D |
| 5. | Amendments to the Compendium of Classification Opinions to reflect the classification of milk protein (product # 2) in heading 35.04 | NC1265E1a Annex E |
| 6. | Amendments to the Compendium of Classification Opinions to reflect the classification of pegfilgrastim (INN) in subheading 3907.20 | NC1265E1a Annex F |
| 7. | Amendment of the Explanatory Note to heading 57.02 | NC1265E1a Annex G |
| 8. | Amendments to the Compendium of Classification Opinions to reflect the classification of "soccer goalkeeper jersey" in heading 61.10 | NC1265E1a Annex H |
| 9. | Amendments to the Compendium of Classification Opinions to reflect the classification of "paintball pants" in Chapter 62 (Classification at heading and subheading level to be determined by the Secretariat) | NC1265E1a Annex IJ |
| 10. | Amendment to the Explanatory Notes of headings 84.36 and 85.08 | NC1265E1a Annex K |
| 11. | Amendments to the Compendium of Classification Opinions to reflect the classification of certain power modules in subheading 8504.40 | NC1265E1a Annex L |
| 12. | Amendment to the Explanatory Note of heading 90.21 and possible amendment of the Explanatory Note to heading 94.02 ... | NC1265E1a Annex M |

NC1250E1a

VIII. FURTHER STUDIES

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|-----|---|---|
| 1. | Classification of vehicles by the name "Jacobsen® Model 1100 and 1110 Haulers" | NC1223E1a (HSC/40) NC1266E1a |
| 2. | Possible amendment of the Explanatory Note to GIR 3 (b) | NC1267E1a |
| 3. | Possible amendment of the Explanatory Note to heading 17.01 .. | NC1268E1a |
| 4. | Classification of certain methanol or ethanol mixtures with gasoline | NC1217E1a (HSC/40) NC1269E1a |
| 5. | Scope of headings 22.06 and 22.08 | NC1270E1a |
| 6. | Scope of Note 1 to Chapter 25 | NC1271E1a |
| 7. | Classification of ivermectin (INN) and similar products | NS0167E1a Annex A/6 (SSC/23) NC1272E1a |
| 8. | General study on pegylation and its effects on the classification of pegylated pharmaceutically active substances | NC1123E1b Annex G/11 (HSC/38) NC1273E1a |
| 9. | Possible amendment of the Explanatory Note to Chapter 29 | NS0167E1a Annexes A/5 and A/10 (SSC/23) NC1274E1a |
| 10. | Classification of INN products (List 96) | NS0167E1a Annex A/8 (SSC/23) NC1275E1a |
| 11. | Possible amendment of the Explanatory Note to heading 30.02 .. | NS0167E1a Annex A/7 (SSC/23) NC1276E1a |
| 12. | Possible amendment of the Explanatory Note to heading 33.01 (Proposal by Canada) | NS0167E1a Annex A/11 (SSC/23) NC1277E1a |

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| | | NC1250E1a |
| 13. | Classification of milk proteins (product # 1) | NC1197E1a NC1232E1a (HSC/40) NC1278E1a |
| 14. | Classification of polyurethane foam in aerosol containers | NS0167E1a Annex A/12 (SSC/23) NC1279E1a |
| 15. | Possible amendment of the Subheading Explanatory Note to subheading 4101.20 | NC1202E1a (HSC/40) NC1280E1a |
| 16. | Classification of a warming blanket | NC1281E1a |
| 17. | Possible amendment of the Explanatory Note to heading 84.15 (Proposal by Brazil) | NC1282E1a |
| 18. | Possible amendment of the Explanatory Note to heading 85.09 .. | NC1283E1a |
| 19. | Possible amendment of the Explanatory Notes to heading 90.25 and 90.27 | NC1284E1a |
| 20. | Classification of lamp posts (Request from Madagascar) | NC1227E1a (HSC/40) NC1285E1a |
| 21. | Possible amendment of the Explanatory Note to heading 95.06 (Proposal by the US) | NC1286E1a |

IX. NEW QUESTIONS

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|----|---|------------------------------------|
| 1. | Classification of pumpkin seeds | NC1249E1a (HSC/40) |
| 2. | Classification of certain jojoba products | NC1238E1b (HSC/40) NC1294E1a |
| 3. | Classification of coconut juice (water) and coconut milk (Request by Norway) | NC1287E1a |
| 4. | Classification of an APC power distribution unit (model APC 9568) (Request by Belarus) | NC1288E1a |
| 5. | Classification of "Sony Playstation 3" (Request by Serbia) | NC1289E1a |
| 6. | Possible amendment of the Explanatory Note to heading 85.27 .. | NC1290E1a |
| 7. | Classification of correction tapes (Request by Japan) | NC1291E1a |

NC1250E1a

8. Classification of cheese substitutes (Request by Argentina) NC1292E1a

X. ADDITIONAL LIST

XI. OTHER BUSINESS

1. List of questions which might be examined at a future session NC1293E1a

XII. ELECTIONS

XIII. DATES OF NEXT SESSIONS

**Request for Applicants for Appointment to the
Departmental Advisory Committee on Commercial
Operations of Customs and Border Protection and Related
Homeland Security Functions (COAC)**

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

ACTION: Committee Management; request for applicants for appointment to the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions (COAC).

SUMMARY: U.S. Customs and Border Protection (CBP) is requesting individuals who are interested in serving on the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions (COAC) to apply for appointment. COAC provides advice and makes recommendations to the Commissioner of CBP, Secretary of Homeland Security, and Secretary of the Treasury on all matters involving the commercial operations of CBP and related DHS functions.

DATES: Applications for membership should reach CBP on or before April 1, 2008.

ADDRESSES: If you wish to apply for membership, your application should be sent to CBP by one of the following methods:

- E-mail: Traderelations@dhs.gov.
- Facsimile: (202) 344-2064.
- Mail: Ms. Wanda J. Tate, Program Management Analyst, Office of International Affairs and Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Room 8.5C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda J. Tate, Program Management Analyst, Office of International Affairs and Trade Relations, U.S. Customs and Border Protection, (202) 344-1440, Fax (202) 344-2064.

SUPPLEMENTARY INFORMATION:

The Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions (COAC) is an advisory committee established in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C., app.).

Purpose and Objective: The purpose of the Committee is to provide advice to the Commissioner of Customs and Border Protection, the Secretary of Homeland Security, and the Secretary of the Tre-

surey on all matters involving the commercial operations of Customs and Border Protection (CBP) and related functions within the Department of Homeland Security (DHS) or Treasury, and to submit an annual report to Congress describing its operations and setting forth any recommendations. The Committee provides a critical and unique forum for distinguished representatives of diverse industry sectors to present their views and advice directly to senior Treasury, DHS, and CBP officials. This is done on a regular basis in an open and candid atmosphere.

Balanced Membership Plans: The members will be selected by the Commissioner of CBP (subject to approval by the Secretary of Homeland Security and the Secretary of the Treasury) from representatives of the trade and transportation community that do business with CBP, or others who are directly affected by CBP commercial operations and related functions. In addition, members will represent major regions of the country, and, by statute, not more than ten of the Committee's members may be affiliated with the same political party.

Background

In the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203), Congress directed the Secretary of the Treasury to create an Advisory Committee on Commercial Operations of the U.S. Customs Service (now CBP). The Committee is to consist of twenty members drawn from industry sectors affected by CBP commercial operations with balanced political party affiliations. The Committee's first two-year charter was filed on October 17, 1988, and the Committee has been renewed for subsequent two-year terms nine times since then.

With the creation of DHS, the Secretary of the Treasury delegated a joint chair and Committee management role to the Secretary of Homeland Security (see Treasury Department Order No. 100–16, 19 CFR Part 0 Appx.). In Delegation Number 7010.3 (May, 2006), the Secretary of Homeland Security delegated to the Commissioner of CBP the authority to preside jointly with Treasury over the meetings of the Committee, to make appointments (subject to approval of the Secretary of Homeland Security) to COAC jointly with Treasury, and to receive COAC advice.

It is expected that, during its eleventh two-year term, the Committee will consider issues relating to enhanced border and cargo supply chain security. COAC will continue to provide advice and report on matters such as CBP modernization and automation, informed compliance and compliance assessment, account-based processing, commercial enforcement and uniformity, international efforts to harmonize customs practices and procedures, strategic planning, northern border and southern border issues, and relationships with foreign customs authorities.

Committee Meetings

The Committee meets at least once each quarter, although additional meetings may be scheduled. Generally, every other meeting of the Committee may be held outside of Washington, D.C., usually at a CBP port of entry.

Committee Membership

Membership on the Committee is personal to the appointee and is concurrent with the two-year duration of the charter for the eleventh term. Under the Charter, a member may not send an alternate to represent him or her at a Committee meeting. However, since Committee meetings are open to the public, another person from a member's organization may attend and observe the proceedings in a non-participating capacity. Regular attendance is essential; the Charter provides that a member who is absent for two consecutive meetings or two meetings in a calendar year shall be recommended for replacement on the Committee.

No person who is required to register under the Foreign Agents Registration Act as an agent or representative of a foreign principal may serve on this advisory committee.

Members who are currently serving on the Committee are eligible to re-apply for membership provided that they are not in their second consecutive term and that they have met attendance requirements. A new application letter (see ADDRESSES above) is required, but it may incorporate by reference materials previously filed (please attach courtesy copies).

Members will not be paid compensation by the Federal Government for their services with respect to the COAC.

Application for Advisory Committee Appointment

There is no prescribed format for the application. Applicants may send a letter describing their interest and qualifications and enclose a resume.

Any interested person wishing to serve on the Committee must provide the following:

- Statement of interest and reasons for application;
- Complete professional biography or resume;
- Political affiliation, in order to ensure balanced representation (mandatory). If no party registration or allegiance exists, indicate "independent" or "unaffiliated".

In addition, all applicants must state in their applications that they agree to submit to pre-appointment background and tax checks (mandatory). However, a national security clearance is not required for the position.

In support of the policy of DHS on gender and ethnic diversity, qualified women and members of minority groups are encouraged to apply for membership.

Dated: January 30, 2008

W. RALPH BASHAM,
Commissioner,
Customs and Border Protection.

[Published in the Federal Register, February 1, 2008 (73 FR 6196)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Arrival and Departure Record:

(Forms I-94 and I-94W)

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

ACTION: 30-Day Notice and request for comments; Revision of an existing information collection: 1651-0111.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Arrival and Departure Record, Forms I-94 and I-94W. This is a revision of an existing collection of information. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (72 FR 63622) on November 9, 2007, allowing for a 60-day comment period. Seven public comments were received. CBP will respond to these comments. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before March 5, 2008.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/Customs and Border Protection, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION:

U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Arrival and Departure Record

OMB Number: 1651–0111

Form Number: I–94 and I–94W

Abstract: These forms must be completed and signed by aliens arriving by commercial sea and air, who seek admission to the United States. These forms must be given to the CBP Officer at the U.S. port of entry. CBP proposes to revise this information collection by adding data fields for: e-mail address; phone number; passport issuance date; and passport expiration date to the I–94 and I–94W.

Current Actions: This submission is being submitted to revise the current information collection.

Type of Review: Revision

Affected Public: Individuals

Estimated Number of Respondents: 30,924,380

Estimated Time Per Respondent: 8 minutes

Estimated Total Annual Burden Hours: 4,112,943

Estimated Total Annualized Cost on the Public: \$247,385,705

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: January 24, 2008

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

[Published in the Federal Register, February 4, 2008 (73 FR 6522)]

**ACCREDITATION AND APPROVAL OF SGS NORTH
AMERICA, INC., AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 324 Marginal Street, Chelsea, MA 02150, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on August 24, 2006. The next triennial inspection date will be scheduled for August 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: January 31, 2008

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 8, 2008 (73 FR 7574)]



**ACCREDITATION AND APPROVAL OF INSPECTORATE
AMERICA CORPORATION, AS A COMMERCIAL GAUGER
AND LABORATORY**

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

ACTION: Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Inspectorate America Corporation, 12211 Port Road, Operations Blvd., Seabrook, TX 77586, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on September 08, 2006. The next triennial inspection date will be scheduled for September 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: January 31, 2008

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 8, 2008 (73 FR 7573)]

ACCREDITATION AND APPROVAL OF AMSPEC SERVICES LLC, AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Amspec Services LLC, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Amspec Services LLC, 12154 B River Road, St. Rose, LA 70087, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of Amspec Services LLC, as commercial gauger and laboratory became effective on May 06, 2005. The next triennial inspection date will be scheduled for May 2008.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific

Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: January 31, 2008

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 8, 2008 (73 FR 7571)]

**ACCREDITATION AND APPROVAL OF SGS NORTH
AMERICA, INC., AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 300 George Street, East Alton, IL 62024, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on June 13, 2006. The next triennial inspection date will be scheduled for June 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: January 31, 2008

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 8, 2008 (73 FR 7573)]



ACCREDITATION AND APPROVAL OF SGS NORTH AMERICA, INC., AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 11729 Port Road, Seabrook, TX 77586, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on September 26, 2006. The next triennial inspection date will be scheduled for September 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: January 31, 2008

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 8, 2008 (73 FR 7573)]



**ACCREDITATION AND APPROVAL OF CAMIN CARGO
CONTROL, INC., AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of Camin Cargo Control, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Camin Cargo Control, Inc., 31 Fulton Street – Unit A, New Haven, CT 06513, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of Camin Cargo Control, Inc., as commercial gauger and laboratory became effective on December 14, 2005. The next triennial inspection date will be scheduled for December 2008.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: January 31, 2008

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 8, 2008 (73 FR 7571)]

**ACCREDITATION AND APPROVAL OF INTERTEK USA,
INC., AS A COMMERCIAL GAUGER AND LABORATORY**

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

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Intertek USA, Inc., 230 Crescent Ave., Chelsea, MA 02150, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on August 23, 2006. The next triennial inspection date will be scheduled for August 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: January 31, 2008

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 8, 2008 (73 FR 7572)]



**APPROVAL OF SGS NORTH AMERICA, INC., AS A
COMMERCIAL GAUGER**

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

ACTION: Notice of approval of SGS North America, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, SGS North America, Inc., 6624 Langlely Dr., Baton Rouge, LA 70809, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquires regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The approval of SGS North America, Inc., as commercial gauger became effective on May 02, 2005. The next triennial inspection date will be scheduled for May 2008.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific

Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: January 31, 2008

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 8, 2008 (73 FR 7574)]

**ACCREDITATION AND APPROVAL OF SGS NORTH
AMERICA, INC., AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 1448 Texas Ave., Texas City, TX 77590, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on September 26, 2006. The next triennial inspection date will be scheduled for September 2009.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific

Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: January 31, 2008

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 8, 2008 (73 FR 7573)]

**ACCREDITATION AND APPROVAL OF SGS NORTH
AMERICA, INC., AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 3735 W. Airline Hwy., Reserve, LA 70084, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on May 05, 2005. The next triennial inspection date will be scheduled for May 2008.

FOR FURTHER INFORMATION CONTACT: Commercial Gauger Laboratory Program Manager, Laboratories and Scientific

Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: January 31, 2008

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, February 8, 2008 (73 FR 7572)]

USCBP-2007-0083

**PROPOSED INTERPRETATION OF THE EXPRESSION
“SOLD FOR EXPORTATION TO THE UNITED STATES” FOR
PURPOSES OF APPLYING THE TRANSACTION VALUE
METHOD OF VALUATION IN A SERIES OF SALES**

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

ACTION: Proposed interpretation; extension of comment period.

SUMMARY: This document provides an additional 30 days for interested parties to submit comments on Customs and Border Protection’s proposed interpretation of the phrase “sold for exportation to the United States” for purposes of applying the transaction value method of valuation in a series of sales importation scenario. The proposed interpretation was published in the **Federal Register** on January 24, 2008, and the comment period was scheduled to expire on March 24, 2008.

DATES: Comments on the proposed rule must be received on or before April 23, 2008.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2007-0083.
- Mail: Trade and Commercial Regulations Branch, Office of International Trade, Customs and Border Protection, 1300 Pennsylvania Ave., NW., (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and document number for this proposed interpretive rule. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Lorrie Rodbart, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade, (202) 572-8740.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to submit written data, views, or arguments on all aspects of the proposed interpretation. If appropriate to a specific comment, the commenter should reference the specific portion of the proposed interpretation, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Background

Notice of Proposed Interpretation

On January 24, 2008, a notice was published in the **Federal Register** (73 FR 4254) informing interested parties that Customs and Border Protection (CBP) proposed a new interpretation of the phrase “sold for exportation to the United States” for purposes of applying the transaction value method of valuation in a series of sales importation scenario. Under this proposal, in a transaction involving a series of sales, the price actually paid or payable for the imported goods when sold for exportation to the United States is the price paid in the last sale occurring prior to the introduction of the goods into the United States, instead of the first (or earlier) sale. As a result, transaction value will normally be determined on the basis of the price paid by the buyer in the United States. This proposed interpretation reflects the conclusions of the Technical Committee on Customs Valuation as set forth in Commentary 22.1, entitled “Meaning of the Expression ‘Sold for Export to the Country of Importation’ in a Series of Sales.”

The notice of proposed interpretation invited public comment on the proposal, and requested that comments be received on or before March 24, 2008.

Extension of Comment Period

In response to the proposed interpretation, CBP has received correspondence requesting an extension of the comment period. A decision has been made to grant an extension of 30 days. Comments are now due on or before April 23, 2008.

Dated: February 1, 2008

MYLES B. HARMON,
*Acting Executive Director,
Regulations & Rulings,
Office of International Trade.*

[Published in the Federal Register, February 7, 2008 (73 FR xxxx)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.
Washington, DC, February 6, 2008

The following documents of U.S. 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,
*Executive Director,
Regulations and Rulings Office of Trade.*

**PROPOSED REVOCATION OF NEW YORK RULING
LETTER N004573 AND REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF
CERTAIN FLIP-FLOP SANDALS.**

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

ACTION: Notice of proposed revocation of a tariff classification ruling letter and proposed revocation of treatment relating to the classification of certain Flip-Flop Sandals.

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 letter N004573 relating to the tariff classification of certain flip-flop sandals made of an outer sole of rubber or plastic and an upper of scratched ethyl vinyl acetate (EVA), with a polyvinyl chloride trim (PVC) and a PVC trimmed foot bed, 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 transactions. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before March 21, 2008.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings. Attention: Commercial Trade and 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: John Rhea, Tariff Classification and Marking Branch: (202) 572-8785.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on 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 New York (NY) ruling letter N004573 pertaining to the tariff classification of certain flip-flop sandals made of an outer sole of rubber or plastics and an upper of scratched ethyl vinyl acetate (EVA), with polyvinyl chloride trim (PVC). Although in this notice, CBP is specifically referring to the revocation of NY N004573 (Attachment A), 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 one 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, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. 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 its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In the above mentioned ruling, CBP determined that the subject Flip-Flop Sandals were classifiable under subheading 6404.19.35, HTSUSA. Based upon a review of the construction of the article, we have determined that the Flip-Flop Sandals are properly classified in subheading 6402.99.3165, HTSUSA, the provision for "Other footwear with outer soles and uppers of rubber or plastics: Other footwear. . . ."

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY N004573 and any other ruling not specifically identified, to reflect the proper classification of the Flip-Flop Sandals according to the analysis contained in proposed Headquarters Ruling Letter H008516, set forth as 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: January 30, 2008

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments:

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
U.S. CUSTOMS AND BORDER PROTECTION,
January 9, 2007
CLA-2-64:RR:SP:247
CATEGORY: Classification
TARIFF NO.: 6404.19.35, 4202.92.6091

MS. IRINA PARKER
AVON PRODUCTS INCORPORATED
1251 Avenue of the Americas
New York, NY 10020-1196

RE: The tariff classification of footwear and bag from China

DEAR MS. PARKER:

In your letter dated December 8, 2006, you requested a tariff classification ruling for a "flip-flop" sandal and zipper bag.

The submitted sample identified as PP365397 is an open toe/heel, thong sandal with and outer sole of rubber/plastics and an upper of textile material. The bag measures approximately 6 ½ inches x 12 inches by 3 ¼ inches and has two textile handles and a zipper closure.

The applicable subheading for the sandal will be 6404.19.35, Harmonized Tariff Schedule of the United States, (HTSUS), which provides for footwear with outer soles of rubber/plastics and uppers of textile material: other: footwear with open toes or open heels: other. The general rate of duty will be 37.5 percent ad valorem.

The applicable subheading for the carry bag will be 4202.92.6091, HTSUS which provides for other containers, of cotton. The general rate of duty will be 6.3 percent ad valorem.

Subheading 4202.92.6091, HTSUS falls within textile category 369. With the exception of certain products of China, quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

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 World Wide Web at <http://www.usitc.gov/tata/hts/>.

The submitted samples are not marked with the country of origin. Therefore, if imported as is, they will not meet the country of origin marking re-

quirements of 19 U.S.C. 1304. Accordingly, the footwear would be considered not legally marked under the provisions of 19 C.F.R. 134.11 which states, “every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article.”

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, Richard Foley at 646-733-3042.

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

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
U.S. CUSTOMS AND BORDER PROTECTION,
HQ H008516
CLA-2 OT:RR:CTF:TCM H008516 JER
CATEGORY: Classification
TARIFF NO.: 6402.99.3165

MS. IRINA PARKER
AVON PRODUCTS, INC.
1251 Avenue of the Americas
New York, NY 10020-1196

RE: Proposed Revocation of Ruling N004573; 6402.99.3165

DEAR MS. PARKER

This is in response to your request for reconsideration of NY Ruling Letter N004573, issued on January 9, 2007, concerning the classification of certain merchandise under the Harmonized Tariff Schedule of the United States (“HTSUS”). At issue is the correct classification of the flip-flop sandal identified as 3 Flip Flops in a Bag, item PP365397 and imported by Avon Products, Inc. U.S. Customs and Border Protection (“CBP”) classified this merchandise under heading 6404, HTSUS, which provides for footwear with outer soles of rubber or plastics and uppers of textile material. After reviewing NY N004573, we have found that ruling to be in error. For the reasons set forth in this ruling, we are revoking NY N004573.

FACTS:

The merchandise at issue is an open toe/heel, thong sandal with an outer sole of rubber or plastics and an upper of brushed or scratched ethyl vinyl acetate (EVA). The top piece is a toe criss-cross with a terry sock and EVA sole. The footwear has a polyvinyl chloride trim (PVC) around the toe criss-cross upper and a PVC trim along the foot bed. The flip-flops appear in three different colors, yellow, pink and blue. In N004573, CBP incorrectly identified the material of the upper as a textile fabric because of the appearance of

fibers and the tactile surface. Upon further examination, we agree that the material of the upper is actually brushed EVA and not of textile material.

Avon has now provided CBP with additional information about the subject merchandise. We have considered your arguments and, based on the new information provided to CBP, we now conclude that the previous classification of your merchandise under heading 6404, HTSUS, was incorrect. Our reasoning is set forth in the “Law and Analysis” section below.

ISSUE:

Whether classification of the flip-flop sandal(s), item PP365397, is properly under heading 6404, HTSUS, or alternatively, heading 6402, HTSUS?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

The HTSUS provisions under consideration are as follows:

6402 Other footwear with outer soles and uppers of rubber or plastics:

* * *

Other footwear:

* * *

6402.99 Other:

Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather):

* * *

Other:

* * *

6402.99.3165 Other

6404 Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials:

Footwear with outer soles of rubber or plastics:

* * *

6404.19 Other:

* * *

Footwear with open toes or open heels: footwear
of the slip-on type . . .

* * *

6404.19.35 Other

* * *

CBP previously classified the flip-flop sandals at issue in heading 6404, HTSUS, as footwear with outer soles of rubber or plastics and uppers of textile materials. We viewed the uppers to be of textile material because there are visible fibers which protrude the surface of the footwear upper and are tactile in presentation. However, based on the sample and additional information provided to CBP and after re-examination of the subject merchandise, we are now of the view that the flip-flop sandals are not described in heading 6404, HTSUS.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not 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.

EN 64.02 explains:

This heading covers: *Thong-type* sandals in which the thongs are attached to the sole by plugs which lock into the holes of the soles

* * *

It is your view that the correct classification of this merchandise is under heading 6402, HTSUS, as other footwear with outer soles and uppers of rubber or plastics. In Headquarters Ruling Letter (“HQ”) 966589, dated February 24, 2004, CBP ruled that certain men’s sandals were classifiable under heading 6402, HTSUS, because the plastic material comprised over 90 percent of the sandal’s external surface area and constituted the substance of the sandal’s upper. As we noted in HQ 966589, the Explanatory Notes to heading 6402, HTSUS, state that “other footwear . . . with uppers of rubber or plastics” are properly classifiable in heading 6402, HTSUS.

In the instant case, the flip-flop sandals are similar to the men’s sandal of HQ 966589, in that the uppers are composed almost entirely of ethyl vinyl acetate (EVA) with PVC trim. Like the sandals in HQ 966589, the uppers of the subject merchandise are made of over 90 percent plastic material and constitute the substance of this flip-flop sandal. Therefore, the flip-flop sandals are properly classified under heading 6402, HTSUS, specifically in subheading 6402.99.3165, HTSUS.

HOLDING:

By application of GRI 1, the flip-flop sandals, item PP365397, with uppers of scratched EVA and PVC trim are, classified in heading 6402, HTSUS, and are specifically provided for in subheading 6402.99.3165, HTSUS, which provides for: “Other footwear with outer soles and uppers of rubber or plastics: Other footwear: Other: Other: Other: Other, Other: For Women: Other.” The column one, general rate of duty is 6 percent *ad valorem*.

EFFECT ON OTHER RULINGS:

NY N004573, dated January 9, 2007, is hereby revoked.

MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.


GENERAL NOTICE**19 CFR PART 177****MODIFICATION OF RULING LETTER RELATING TO
VALUATION OF CHILDREN'S DRESS-UP PRODUCTS**

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

ACTION: Notice of modification of ruling letter and treatment relating to the valuation of children's dress-up products.

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") is modifying a ruling letter and any treatment previously accorded by CBP to substantially identical transactions, concerning the valuation of children's dress-up products. Notice of the proposed action was published in the *Customs Bulletin* on December 19, 2007. No comments were received in response to this notice.

EFFECTIVE DATE: This modification is effective for merchandise entered or withdrawn from warehouse April 20, 2008.

FOR FURTHER INFORMATION CONTACT: Gina Grier, Valuation and Special Programs Branch, (202) 572-8740.

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), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts that emerge from the law are **informed compliance** and **shared responsibility**. These concepts are based on the premise 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 rights and responsibilities 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, 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 declare value on imported merchandise, and to provide other necessary information to enable CBP to properly assess duties, collect accurate statistics and determine whether any other 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 December 19, 2007, in the *Customs Bulletin* Vol. 41, No. 52, proposing to modify Headquarters Ruling Letter (HQ) 563551, dated October 12, 2006. This ruling related in pertinent part to the valuation of children's dress-up products imported from Canada.

As stated in the proposed notice, this modification will cover any rulings on this issue that 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 issue subject to this notice, should have advised CBP 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, CBP is revoking 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 involving the same or similar issues, or the importer's or CBP's previous interpretation of the valuation laws. 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 transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or his agents for importations of merchandise subsequent to the effective date of this final notice.

In HQ 563551, CBP addressed the issue of the method of appraisement of children's dress-up products that are made in Sri Lanka and placed in a Canadian warehouse before shipment to the United States. Upon review, certain factual inaccuracies concerning the disposition of goods arriving in Canada were noted in HQ 563551. The holding in HQ 563551 also advised the use of an incorrect appraisement method for goods sold from inventory in the Canadian warehouse to customers in the United States. Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying HQ 563551 and any other ruling not specifically identified, to reflect the proper appraisement of the mer-

chandise pursuant to the analysis in HQ H009727, as set forth in the Attachment to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment it previously accorded 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: February 5, 2008

MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments



DEPARTMENT OF HOMELAND SECURITY.
U.S. CUSTOMS AND BORDER PROTECTION,
HQ H009727
February 5, 2008
OT:RR:CTF:VS H009727 GG
CATEGORY: VALUATION

MS. CAROL BEAUL
Intelli Trade Inc.
5405 Eglinton Avenue West, Suite 100
Etobicoke, Ontario M9C 5K6
Canada

RE: Transaction value; sale for exportation to the United States; warehoused in Canada; modification of HQ 563551

DEAR MS. BEAUL:

This letter is in reference to Headquarters Ruling Letter ("HQ") 563551, dated October 12, 2006, that was issued to you on behalf of Creative Education of Canada, Inc. ("CEC"), on the subject of the valuation of children's dress-up products imported from Canada. We have reconsidered HQ 563551 and have determined that it requires modification. Accordingly, this ruling sets forth the corrected appraisement determination. We regret any inconvenience this may have caused.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published on December 19, 2007, in the Customs Bulletin, Volume 41, No. 23. No comments were received in response to this notice.

FACTS:

CEC sells children's dress-up products to toy stores and toy distributors throughout the United States and Canada. In addition, CEC sells merchandise directly to U.S. and Canadian customers through on-line Internet sales. Approximately 86% of the sales are to the United States.

In addition to manufacturing products in Canada, CEC purchases merchandise from an unrelated manufacturer in Sri Lanka, DSL Toys (PVT)

Ltd. (“DSL”), for resale in Canada and the United States. The market in which CEC sells its merchandise requires short turnaround to fulfill orders. CEC sells to small specialty stores that typically place orders just before their busiest times between the Halloween and Christmas seasons. In addition, because most of CEC’s customers are small businesses, they place frequent orders in small quantities. Consequently, CEC’s customers are unable to purchase merchandise directly from many manufacturers that only sell large quantity orders and require several months lead time.

At the time of the ruling request (September, 2006), CEC’s procedures with respect to merchandise ordered from DSL were as follows: Upon placing an order with DSL, CEC indicated the quantity of each item that was destined for Canada and the quantity (the majority) that was destined for the United States. All of the ordered product was shipped to Canada, where on arrival the Canadian destined goods were cleared through Canada Customs. The U.S. bound goods were not entered in Canada but proceeded in-bond to the United States where they cleared U.S. Customs. They were then stored in a warehouse in Michigan.

Upon receipt of orders from U.S. customers, CEC picked and packed the Canadian produced product in Canada, then shipped it to the United States where it was entered. The goods were then taken to the Michigan warehouse where the order was supplemented with items produced by DSL. The combined product would then be forwarded to the U.S. customers.

Under this old system, CEC was declaring the price it paid to DSL for those goods that were shipped in-bond to the United States upon arrival in Canada. The Canadian produced items were declared on the basis of the sale between CEC and the U.S. purchasers.

To reduce costs, CEC decided to reorganize its logistics operations by consolidating its warehousing operations at a single facility. Instead of transferring the U.S. bound DSL merchandise to the Michigan warehouse, CEC will now store all of its merchandise at its warehouse in Toronto. CEC planned to designate a portion of its Canadian warehouse as a bonded facility.

Under this new system, CEC will issue separate purchase orders to DSL for the U.S. destined products. These purchase orders are based on past and projected sales to U.S. customers, not on actual orders already placed. This is done to ensure that there will be sufficient stock to handle the orders when they come in, usually during the Halloween through Christmas seasons. This results in the importation into Canada of the products before any orders are received from U.S. customers.

All products destined for both the U.S. and Canada would now be shipped to the Toronto warehouse, where the Canadian bound product would be put into the Canadian inventory and the U.S. destined products placed in the bonded facility. There, defective U.S. bound products will be fixed within the bonded facility. Any defective product that cannot be fixed will be destroyed under CBSA (Canada Border Services Agency) supervision or shipped back to the vendor. Surplus or obsolete U.S. destined product will be sold at toy fairs or trade shows in the United States.

Under both the old and new systems, the terms of sale for the DSL merchandise purchased by CEC will be FOB Columbo, Sri Lanka regardless of whether the merchandise is destined for the U.S. or Canadian market. CEC would like to continue to declare the price it pays to DSL upon eventual entry into the United States.

ISSUE:

Whether, under CEC's new system, transaction value is properly based on the sales between CEC and DSL, or on the sales between CEC and the ultimate U.S. purchasers?

LAW AND ANALYSIS:

Section 402(b)(1) of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA; 19 U.S.C. 1401a) provides, in pertinent part, that the transaction value of imported merchandise is the "price actually paid or payable for the merchandise when sold for exportation to the United States," plus enumerated additions. In order for imported merchandise to be appraised under the transaction value method it must be the subject of a *bona fide* sale between a buyer and seller, and it must be a sale for exportation to the United States.

CEC would like its merchandise to be appraised under transaction value based upon the sales between CEC and DSL. The first issue to be addressed is whether the transactions between CEC and the DSL are *bona fide* sales. CBP recognizes the term "sale," as described in *J.L. Wood v. United States*, 62 CCPA 25, 33, C.A.D. 1139, 505 F.2d 1400, 1406 (1974), to be a transfer of property from one party to another for consideration. In ascertaining whether a *bona fide* sale has taken place between a purported buyer and seller of the imported merchandise, no single factor is determinative. Rather, the relationship is to be determined by an overall view of the entire situation, with the result in each case governed by the facts and circumstances of the case itself. *Dorf International, Inc. v. United States*, 61 Cust. Ct. 604, A.R.D. 245 (1968).

Several factors may indicate that a *bona fide* sale exists between the purported buyer and seller. In determining whether property or ownership has been transferred, CBP considers whether the potential buyer has assumed the risk of loss and acquired title to the imported merchandise. In addition, CBP may examine whether the purported buyer paid for the goods, and whether, in general, the roles of the parties and circumstances of the transaction indicate that the parties are functioning as buyer and seller. See HRL 545474, dated August 25, 1995, and HRL 545709, dated May 12, 1995. CEC has provided copies of purchase orders, invoices, and proof of payment, which indicate that it places orders with, is billed by, and pays DSL for the goods received. CEC explains that the "FOB Columbo" term of sale is used, which signifies that risk of loss, and in the absence of express instruction otherwise, also title, transfer from DSL to CEC when the goods are laden on board the departing vessel in Columbo. (We note that some of the submitted documents show a "C&F Toronto" term of sale, which is also indicative of risk of loss passing in Columbo, and the assumption by DSL of international shipping costs). To further demonstrate that its transactions with DSL are *bona fide* sales, CEC notes that it provides product and shipping instructions to DSL, sets the prices to its own customers without input from DSL, and issues a catalogue under its own name. We agree that the submitted documentation and the description of the roles of the parties support CEC's contention that it enters into *bona fide* sales with DSL.

Although there are *bona fide* sales between CEC and DSL, to qualify as the basis for transaction value upon entry into the United States such sales must also be "for exportation to the United States." CEC claims that the special procedures it has implemented under its new system ensure that the goods in question are destined solely for the United States when purchased

from DSL. Specifically, CEC will issue separate purchase orders and use distinct product codes for merchandise destined, respectively, for the United States and Canada. Also, the U.S. destined products will be stored in a bonded warehouse until they are ready for shipment to the U.S. customer. CEC has also taken measures to ensure that defective goods will be either destroyed or returned to DSL, and that surplus or obsolete U.S. bound items will be sold at toy fairs or trade shows in the United States.

Notwithstanding these new procedures, when sold by DSL to CEC the goods will go to Canada, where they will stay in CEC's inventory at the bonded warehouse until one of several contingencies occurs, including being sold to a U.S. customer, being returned to the vendor, being destroyed, or being sent to the United States for sale at a toy fair or trade show. At the time of the sale between DSL and CEC, there are no U.S. customers or arrangements to physically send the goods to the United States, and the ultimate disposition of the merchandise is unknown. Under these circumstances, the sale between DSL and CEC is not a sale for exportation to the United States.

HOLDING:

Under the new system, the sales between DSL and CEC are not a sales for exportation to the United States. When the warehoused items are sold by CEC to U.S. customers and shipped to the United States, such sales are sales for exportation to the United States. Upon importation, the goods shall be appraised under transaction value based upon the sales between CEC and its U.S. customers.

A copy of this ruling letter should be attached to the entry documents filed at the time the goods are entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the CBP officer handling the transaction.

EFFECT ON OTHER RULINGS:

Headquarters Ruling Letter ("HQ") 563551, dated October 12, 2006, is hereby MODIFIED. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

MYLES B. HARMON,
Director,
Commerical and Trade Facilitation Division.