

# U.S. Customs and Border Protection

## *General Notices*

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

*Washington, DC, March 4, 2009*

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 International Trade.*

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### **PROPOSED REVOCATION OF A RULING LETTER AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF WALL BANNERS AND PENNANTS**

**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 wall banners and pennants

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)), this notice advises interested parties that Customs and Border Protection (CBP) intends to revoke a ruling letter relating to the tariff classification of wall banners and pennants, under the Harmonized Tariff Schedule of the United States (HTSUS). The wall banners and pennants are a wool blend felt composed of 70% wool and 30% acrylic. CBP also proposes to revoke any treatment previously accorded by it to substantially identical trans-

actions. Comments are invited on the correctness of the intended actions.

**DATE:** Comments must be received on or before April 18, 2009.

**ADDRESS:** Written comments are to be addressed to Customs and Border Protection, Regulations and Rulings of the Office of International Trade, Attention: Commercial Trade and Regulations Branch, 799 9th Street, N.W., Washington, D.C. 20001. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street N.W., Washington, D.C. 20001, during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark, Trade and Commercial Regulations Branch, at (202) 325-0118.

**FOR FURTHER INFORMATION CONTACT:** John Rhea, Tariff Classification and Marking Branch: (202) 325-0035

**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 a ruling letter pertaining to the tariff classification wall banners and pennants made of wool blend felt. Although in this notice, CBP is specifically referring to the proposed revocation of New York Ruling Letter ("NY") K86053, dated May 14, 2004, (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 or modify 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 wall banners and pennants were classifiable under subheading 6307.90.85, HTSUS, which provides for, "Other made up articles, including dress patterns: Other: Wall banners, of man-made fibers." Based upon the composition of the textile material of this product, we have determined that the wall banners and pennants are properly classified under subheading 6307.90.98, HTSUS, which provides for: "Other made up articles, including dress patterns: Other: Other: Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to revoke NY K86053 and revoke any other ruling not specifically identified, to reflect the proper classification of the wall banners and pennants according to the analysis contained in proposed Headquarters Ruling Letter ("HQ") 019434, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is proposing to revoke or modify 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:** March 3, 2009

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,  
NY K86053  
May 14, 2004  
CLA-2-63:RR:NC:N3:351 K86053  
CATEGORY: Classification  
TARIFF NO.: 6307.90.8500

LAUREN J. LARSON  
PRESIDENT  
WINNING STREAK SPORTS, LLC.  
2018 East Prairie Circle  
Olathe, KS 66062-1268

RE: The tariff classification of pennants and banners from China and Taiwan

DEAR MS. LARSON:

In your letter dated May 6, 2004, you requested a tariff classification ruling.

The submitted sample is a pennant that measures 17 ½"W x 40 ½"L and is constructed from a 420-gram/m<sup>2</sup> wool blend felt that is 70 percent wool and 30 percent acrylic. The design on the banner is produced by embroidery and applique.

You indicate that you will also import pennants that measure 13" x 32" and 6" x 15" and rectangular and square banners that are usually between 2' and 4' per side.

You suggest that a possible classification for these items might be 9811.00.6000, HTS. The more appropriate subheading for the pennants and banners will be 6307.90.8500, Harmonized Tariff Schedule of the United States (HTS), which provides for other made up textile articles . . . Other: Wall banners, of man made fibers. The rate of duty will be 5.8 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Mitchel Bayer at 646-733-3102.

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

## [ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
**HQ H019434**  
**CLA-2 OT:RR:CTF:TCM H019434 JER**  
**CATEGORY:** Classification  
**TARIFF NO.:** 6307.90.98

LAUREN J. LARSON, PRESIDENT  
WINNING STREAK SPORTS, LLC.  
2018 East Prairie Circle  
Olathe, KS 66062-1268

**RE:** Revocation of NY K86053; 6307.90.9889, HTSUS: wool felt blend pennants and banners

DEAR MS. LARSON:

On May 14, 2004, U.S. Customs and Border Protection ("CBP") issued New York Ruling Letter ("NY") K86053 to you on behalf of Winning Streak, LLC., classifying certain pennants and banners in subheading 6307.90.85 of the Harmonized Tariff Schedule of the United States (HTSUS). After reviewing NY K86053, we have found that ruling to be in error.

**FACTS:**

In NY K86053, the subject merchandise was described as a pennant that measures 17 "W x 40 1/2"L and being constructed from a 420-gram/m2 wool blend felt which is composed of 70 percent wool and 30 percent acrylic. The design on the banner is produced by embroidery and applique. You also indicated that pennants which measure 13" x 32" and 6" x 15" and rectangular and square banners that are usually between 2' and 4' per side will be imported.

**ISSUE:**

Whether pennants and banners made up of wool blend felt are classified under subheading 6307.90.85, HTSUS, or under subheading 6307.90.9889, 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.

GRI 6 provides that the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above rules, on the understanding that only those subheadings at the same level are comparable.

The HTSUS provisions under consideration are as follows:

6307 Other made up articles, including dress patterns:

6307.90 Other:

6307.90.85 Wall banners, of man-made fibers.....

Other:

6307.90.98 Other . . . . .

Note 2 (A) to Section XI, HTSUS, provides in pertinent part that:

Goods classifiable in chapters 50 to 55 or in heading 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over each other single textile material.

Subheading Note 2(A) to Section XI, HTSUS, provides in pertinent part that:

Products of chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under note 2 to this section for the classification of a product of chapters 50 to 55 or of heading 5809 consisting of the same textile materials.

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, 54 Fed. Reg. 35127 (August 23, 1989).

The ENs to heading 6307, HTSUS, provides in relevant part that:

This heading covers made up articles of any textile material which are not included more specifically in other headings of Section XI or elsewhere in the Nomenclature.

It Includes, in particular:

\* \* \*

(4) Flags, pennants and banners, including bunting for entertainments, galas or other purposes.

NY K86053 classified the merchandise at issue under subheading 6307.90.85, HTSUS, which provides in relevant part for: wall banners, of man-made fibers. However, the subject wall banners and pennants are not made up of man-made fibers as required by the terms of subheading 6307.90.85, HTSUS but are instead a blend of 70% wool and 30% acrylic.

Chapter 51, HTSUS, provides for: "wool, fine or coarse animal hair; horse-hair yarn and woven fabric." On the other hand, Chapter 54, HTSUS, provides for: "man-made filaments; strip and the like of man-made textile materials." Note 1 to Chapter 54, HTSUS, defines "man-made fibers" as staple fibers and filaments of organic polymers produced either by polymerization of organic monomers or by dissolution or chemical treatment of natural organic polymers.

Subheading Note 2(A) to Section XI provides in pertinent part that products of Chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under Note 2 to Section XI, HTSUS, i.e., the textile material which predominates by weight over each other single textile material. In the instant case 70% of the total finished product is wool. As such, the textile

which predominates by weight over the remaining acrylic component of the subject banners and pennants is the wool fabric which is classified in Chapter 51, HTSUS. Accordingly, the subject merchandise which consists of 70% wool cannot be considered a wall banner of man-made fiber. Instead, the subject item is properly classified as if consisting wholly of wool which is the textile material that predominates by weight.

**HOLDING:**

By application of GRI 1, GRI 6 and Subheading Note 2(A) to Section XI, HTSUS, the subject wall banner and pennants are classified in heading 6307, HTSUS. Specifically, they are provided for in subheading 6307.90.98, HTSUS, which provides for: "Other made up articles, including dress patterns: Other: Other: Other: Other." The 2009 column one, general rate of duty is 7% percent *ad valorem*.

**EFFECT ON OTHER RULINGS:**

NY K86053, dated May 14, 2004, is hereby revoked.

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

