

U.S. Customs and Border Protection



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., 230 Marion Ave., Linden, NJ 07036, has been approved to gauge and accredited to test petroleum and petroleum products 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 April 29, 2010. The next triennial inspection date will be scheduled for April 2013.

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

Dated: July 9, 2010

IRA S. REESE
Executive Director
Laboratories and Scientific Services

**MODIFICATION OF A RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CERTAIN TOOL KITS**

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

ACTION: Notice of modification of a ruling letter and revocation of treatment relating to the tariff classification of tool kits.

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 concerning the tariff classification of certain tool kits. Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published on June 9, 2010, Vol. 44, No. 24, of the *Customs Bulletin*. No comments were received in response to the notice.

DATES: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 4, 2010.

FOR FURTHER INFORMATION CONTACT: Jacinto P. Juarez, Jr., Tariff Classification and Marking Branch: (202) 325–0027.

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 to 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, notice proposing to modify New York Ruling Letter (NY) H80677, dated May 15, 2001, pertaining to the tariff classification of tool kits was published in the June 9, 2010, Vol. 44, No. 24, of the *Customs Bulletin*. No comments were received.

As stated in the proposed notice, this modification will cover any rulings on this merchandise that may exist but have not been specifically identified. 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 have advised CBP during the 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 is revoking 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 NY H80677, CBP determined, in relevant part, that a tool kit comprised of 4 screwdriver bits, a screwdriver handle, an extension adapter, and a tool roll with pockets for the screwdriver handle and adapter and a hard plastic strip riveted at each end to the inside of the roll with four hard plastic sliders with posts attached to this strip for mounting the bits in a socket type holder for storage was classified under subheading 8205.40, HTSUS, which provides for: "handtools (including glass cutters) not elsewhere specified or included; . . . screwdrivers, and parts thereof." It is now CBP's position that the tool kit is classified under subheading 8207.90, HTSUS, which provides for: "interchangeable tools for handtools, . . . other interchangeable

tools, and parts thereof: other: other: not suitable for cutting metal, and parts thereof: for handtools, and parts thereof.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying NY H80677, and any other ruling not specifically identified, to reflect the tariff classification of the subject merchandise according to the analysis contained in Headquarters Ruling Letter (HQ) HQ W968258, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: July 15, 2010

KELLY HERMAN

for

Myles B. Harmon, Director

Commercial and Trade Facilitation Division

Attachment

HQ W968258

July 15, 2010

CLA-2 OT:RR:CTF:TCM 968258 JPJ

CATEGORY: Classification

TARIFF NO.: 8207.90.60

MS. NANCY JIN
PEACE INTERNATIONAL CORPORATION
831 FOSTER AVENUE
BENSENVILLE, ILLINOIS 60106

RE: Modification of NY H80677, dated March 15, 2001; Classification of certain tool kits

DEAR MS. JIN:

This letter concerns New York Ruling letter (“NY”) H80677, dated May 15, 2001, issued to you by the National Commodity Specialist Division (“NCSD”), U.S. Customs and Border Protection (“CBP”). At issue in that ruling, in relevant part, was the classification of a tool kit consisting of 4 screwdriver bits, a screwdriver handle and an extension adapter in a textile roll, under the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed NY H80677 and have found that it is incorrect with respect to the tool kit. For the reasons set forth in this ruling, we are modifying NY H80677.

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 of proposed action was published on June 9, 2010, in the *Customs Bulletin*, Vol. 44, No. 24. No comments were received.

FACTS:

In NY H80677, the tool kit was described as follows:

The first sample includes 4 screwdriver bits, a screwdriver handle and an extension adapter. The tool roll has pockets for the screwdriver handle and the adapter and a hard plastic strip riveted at each end to the inside of the roll. Four hard plastic sliders with posts are attached to this strip. The bits, which are mounted in a socket type holder, fit snugly over the posts for storage.

ISSUE:

Whether the tool kit is classified in heading 8205, HTSUS, as handtools. . . not elsewhere specified or included, or in heading 8207, HTSUS, as interchangeable tools for handtools.

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration are as follows:

- 8205 Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand-or pedal-operated grinding wheels with frameworks; base metal parts thereof (con.):
- 8207 Interchangeable tools for handtools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screwdriving), including dies for drawing or extruding metal, and rock drilling or earth boring tools; base metal parts thereof:
- 8466 Parts and accessories suitable for use solely or principally with the machines of headings 8456 to 8465, including work or tool holders, self-opening dieheads, dividing heads and other special attachments for machine tools; tool holders for any type of tool for working in the hand:

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN’s provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89–80, 54 Fed. Reg. 35127–28 (Aug. 23, 1989).

The instant tool kit consists of at least two different articles that are, *prima facie* classifiable in more than one heading, *i.e.*, the screwdriver handle and extension adapter are classifiable in heading 8466, HTSUS, and the screwdriver bits are classifiable in heading 8207, HTSUS. As such, classification cannot be resolved under GRI 1. GRI 2(b) directs that the “classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.”

GRI 3 provides that:

When by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings refer to only part of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to the goods, even if one of them gives a more complete or precise description of the good.
- (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.
- (c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

The headings at issue only refer to part of the items in the set put up for retail sale. As such, they are regarded as equally specific and resort must be made to GRI 3(b).

EN X to GRI 3(b) provides guidance for determining whether the instant tool kit constitutes “goods put up in sets for retail sale”:

For the purposes of this Rule, the term “goods put up in sets for retail sale” shall be taken to mean goods which:

(a) consist of at least two different articles which are, *prima facie*, classifiable in different headings . . . ;

(b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and

(c) are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).

The screwdriver handle, extension adapter, and screwdriver bits are *prima facie* classifiable under different headings of the HTSUS. These are put together to meet a particular need or carry out a specific activity, that is, tightening or loosening fasteners and is imported in a manner suitable for sale to users without repacking.

Because the three criteria under EN X to GRI 3(b) are satisfied, pursuant to GRI 3(b), the item constitutes “goods put up in sets for retail sale” and will be “classified as if it consisted of the material or component which gives it its essential character, insofar as this criterion is applicable.”

Explanatory Note VIII to GRI 3(b) explains:

“[t]he factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of the constituent material in relation to the use of the goods.”

As noted above, EN (VIII) to GRI 3(b) provides that when performing an essential character analysis the factors that should be considered are the bulk, quantity, weight or value, or the role of a constituent material in relation to the use of the goods. There have been several court decisions on “essential character” for purposes of classification under GRI 3(b). *See, Conair Corp. v. United States*, 29 C.I.T. 888 (2005); *Structural Industries v. United States*, 360 F. Supp. 2d 1330, 1337–1338 (Ct. Int’l Trade 2005); and *Home Depot USA, Inc. v. United States*, 427 F. Supp. 2d 1278, 1295–1356 (Ct. Int’l Trade 2006), *aff’d* 491 F.3d 1334 (Fed. Cir. 2007). “[E]ssential character is that which is indispensable to the structure, core or condition of the article, *i.e.*, what it is.” *Home Depot USA, Inc. v. United States*, 427 F. Supp. 2d at 1293 *quoting* *A.N. Deringer, Inc. v. United States*, 66 Cust. Ct. 378, 383 (1971). In particular in *Home Depot USA, Inc. v. United States*, the court stated “[a]n essential character inquiry requires a fact intensive analysis.” 427 F. Supp. 2d 1278, 1284 (Ct. Int’l Trade 2006). Therefore, a case-by-case determination on essential character is warranted in this situation.

Applying the essential character analysis to the merchandise at issue, we look particularly to the role of the constituent material in relation to the use of the goods. As noted above, this set is intended to be used for tightening or loosening fasteners. The central component is the screwdriver bits because

they enable the tool to function as intended. Thus, the bits are what play the most important role in the use of the instant tool kit, and provide the essential character of the set. *Accord* NY J82517, April 17, 2003 (which determined, in relevant part, that the essential character of a 24 Piece Ratchet & Bit Set was imparted by the screwdriver bits); NY K83351, March 10, 2004 (which determined, in relevant part, that the essential character of three tool sets was imparted by the screwdriver bits). As such, the screwdriver bits are provided for in heading 8207, HTSUS.

HOLDING:

In accordance with GRI 3(b), the instant tool kit, which includes 4 screwdriver bits, a screwdriver handle and an extension adapter, is classified in heading 8207, HTSUS, and specifically in subheading 8207.90.60, HTSUS, as: “Interchangeable tools for handtools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screwdriving), including dies for drawing or extruding metal, and rock drilling or earth boring tools; base metal parts thereof: Other interchangeable tools, and parts thereof: Other: Other: Not suitable for cutting metal, and parts thereof: For handtools, and parts thereof”. The 2010 column one rate of duty is 4.3%.

EFFECT ON OTHER RULINGS:

NY H80677, dated May 15, 2001, is hereby modified.

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

Sincerely,

KELLY HERMAN

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



GENERAL NOTICE

19 CFR PART 177

Revocation of Ruling Letter and Revocation of Treatment Relating to Classification of a Cooktop Scraper From China

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

ACTION: Notice of revocation of ruling letter and treatment relating to the classification of a cooktop scraper from China.

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 Implementa-

tion Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that CPB is revoking a ruling concerning the classification of a cooktop scraper under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CPB is revoking any treatment previously accorded by CPB to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 44, No. 24, on June 9, 2010. No comments were received in response to this notice.

DATES: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 4, 2010.

FOR FURTHER INFORMATION CONTACT: Tamar Anolic, Tariff Classification and Marking Branch: (202) 325–0036.

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, notice proposing to revoke one ruling letter pertaining to the tariff classification of a cooktop scraper was published in the *Customs Bulletin*, Vol. 44, No. 24, on June 9, 2010. No comments were received in response to this notice.

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

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. 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 this notice subsequent to the effective date of the final decision on this notice.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N018967 to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed Headquarters Ruling Letter H020853, set forth as an attachment to this document. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: July 15, 2010

KELLY HERMAN
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H020853

July 15, 2010

CLA-2- OT:RR:CTF:TCM H020853 TNA

CATEGORY: Classification

TARIFF NO.: 8205.51.30

JOSEPH DELAHANTY, LICENSED CUSTOMS BROKER
PANALPINA, INC.
1776 ON-THE-GREEN
67 PARK PLACE
MORRISTOWN, NJ 07960

RE: Revocation of NY N018967; Tariff Classification of a Ceramic Cooktop Scraper from China

DEAR MR. DELAHANTY:

This is in response to your request, made on behalf of your client, Delta Carbona, L.P., dated December 10, 2007, for reconsideration of New York Ruling Letter (“NY”) N018967, dated November 1, 2007, which pertains to the classification of a Ceramic Cooktop Scraper under the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed that ruling and have found it to be in error. Therefore, this ruling revokes NY N018967.

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, notice proposing to revoke NY N018967 was published on June 9, 2010, in Volume 44, Number 24, of the *Customs Bulletin*. CBP received no comments in response to this notice.

FACTS:

The merchandise at issue is a Ceramic Cooktop Scraper (“scraper”), consisting of a plastic handle with a steel razor blade on one end. The razor blade is retractable and operated by a sliding thumb tool. You state that the tool’s “functional purpose” is to remove burnt-on crust from glass ceramic cooktops, and it is being marketed, packaged and sold as such.

The scraper comes packaged as one scraper with three replacement blades. Its packing bears such descriptors as “glass ceramic cooktop scraper,” and “use to remove burnt on crust.” Directions on the package indicate that the merchandise is for “use only on cold surfaces. After removing burnt crust or food particles, clean cooktop with Carbona Glass Ceramic Cooktop Cleaner.” In addition, the product’s listing on Delta Carbona’s website and other similar sites also indicates that the merchandise is intended to complement other types of ceramic cleaners. According to this marketing material, the subject merchandise can be used “without scratching your class ceramic cooktop.” A sample was received and examined by this office.

In NY N018967, the subject merchandise was classified in subheading 8205.59.5510, HTSUS, which provides for handtools (including glass cutters) not elsewhere specified or included: other handtools (including glass cutters) and parts thereof: other: other: other: of iron or steel: other: edged handtools: other.

ISSUE:

Whether the Ceramic Cooktop Scraper is classified under subheading 8205.51, HTSUS, as a household tool, or under subheading 8205.59, HTSUS, as an “other” type of tool?

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that most goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related subheading notes and *mutatis mutandis*, to the GRIs 1 through 5.

The HTSUS provisions under consideration are as follows:

8205	Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frame-works; base metal parts thereof
	Other handtools (including glass cutters) and parts thereof:
8205.51	Household tools, and parts thereof:
	Of iron or steel:
8205.51.30	Other (including parts)
8205.59	Other:
	Other:
	Of iron or steel:
8205.59.55	Other:
	Edged handtools

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

The EN to heading 8205, HTSUS, states, in pertinent part, the following:

This heading covers all hand tools **not included** in other headings of this Chapter or elsewhere in the Nomenclature (see the General Explanatory Notes to this Chapter), together with certain other tools or appliances specifically mentioned in the title.

It includes a large number of hand tools (including some with simple hand operated mechanisms such as cranks, ratchets or gearing). This group of tools includes:...

(E) **Other hand tools (including glaziers' diamonds).**

This group includes:

(1) A number of household articles, including some with cutting blades but **not including** mechanical types (see the Explanatory Note to **heading 82.10**), having the character of tools and accordingly not proper to heading 73.23, such as :

Flat irons (gas, paraffin (kerosene), charcoal, etc., types, but **not** electric irons which fall in **heading 85.16**), curling irons; bottle openers, cork screws, simple can openers (including keys); nut crackers; cherry stoners (spring type); button hooks; shoe horns; “steels” and other knife sharpeners of metal; pastry cutters and jagers; graters for cheese, etc.; “lightning” mincers (with cutting wheels); cheese slicers, vegetable slicers; waffling irons; cream or egg whisks, egg slicers; butter curlers; ice picks; vegetable mashers; larding needles; pokers, tongs, rakers and cover lifts for stoves or fire places...

(7) Miscellaneous hand tools such as farriers’ paring knives, toeing knives, hoof pickers and hoof cutters, cold chisels and punches; riveters’ drifts, snaps and punches; non plier type nail lifters, case openers and pin punches; tyre levers; cobblers’ awls (without eyes); upholsterers’ or bookbinders’ punches; soldering irons and branding irons; metal scrapers; non plier type saw sets; mitre boxes; cheese samplers and the like; earth rammers; grinding wheel dressers; strapping appliances for crates, etc., **other than** those of **heading 84.22** (see the relevant Explanatory Note); spring operated “pistols” for stapling packages, paperboard, etc.; cartridge operated riveting, wall plugging, etc., tools; glass blowers’ pipes; mouth blow pipes; oil cans and oilers (including those with pump or screw mechanisms), grease guns.

In your request for reconsideration, you argue that the scraper should be classified in subheading 8205.51, HTSUS, based on its use as a household tool, primarily in the kitchen to clean a certain type of surface within the kitchen. In Headquarters Ruling Letter (HQ) 959568, dated July 11, 1997, CBP classified a six-piece kitchen set in subheading 8205.51, HTSUS. In so doing, we stated the following:

The U.S. Court of International Trade (CIT) has noted Webster’s New World Dictionary of American English 654 (3d College ed. 1988)’s definition of the term “household” as “of a household or home; domestic.” The Court determined that when “household” is used with the term “articles” a use provision is created. *Hartz Mountain Corp. v. United States*, 903 F.Supp. 57, 59, CIT Slip Op. 95–154 (Sept. 1, 1995). The Court found the phrase “household articles” to be a use provision within the context of subheading 3924.90.50, HTSUS. Similarly, we believe that, within the context of subheading 8205.51, HTSUS, when “household” is used with the term “tools” a use provision is created.

Additional U.S. Rule of Interpretation 1(a) states that “a tariff classification controlled by use is determined in accordance with the principal use of the class or kind of goods to which the imported goods belong.” Courts have also provided several factors to apply when determining whether merchandise falls within a particular class or kind of good. They include: (1) the general physical characteristics of the merchandise; (2) the expectation of the ultimate purchasers; (3) the channels of trade in which the merchandise

moves; (4) the environment of the sale (e.g. the manner in which the merchandise is advertised and displayed); (5) the usage of the merchandise; (6) the economic practicality of so using the import; and (7) the recognition in the trade of this use. *See United States v. Carborundum Co.*, 63 CCPA 98, 102, 536 F.2d 373, 377 (1976), *cert denied*, 429 U.S. 979 (1976).

In the present case, there is nothing in the subject merchandise's general physical characteristics that would indicate that its principal use is for countertops made of glass ceramic. However, Delta Carbona's marketing materials, including the product's packaging and the company's website, market the scraper for use as a cleaning tool in the kitchen. Furthermore, online product reviews indicate that consumers primarily use this tool as it is marketed- to clean their kitchens. *See, e.g.*, <http://www.thriftyfun.com/tf28361339.tip.html>. As a result, we find that the scraper's principal use is as a household tool. As a result, it is classified in subheading 8205.51.30, HTSUS, which provides for "household tools and parts thereof: of iron or steel."

HOLDING:

Under the authority of GRI 1, the razor blade scraper is provided for in heading 8205, HTSUS, and specifically in subheading 8205.51.30, which provides for "Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; Other handtools (including glass cutters) and parts thereof: Household tools, and parts thereof: Of iron or steel: Other (including parts)." As such, the duty rate is 3.7%.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the internet at www.usitc.gov/tata/hts/.

EFFECT ON OTHER RULINGS:

NY N018967, dated November 1, 2007, is REVOKED. In accordance with 19 U.S.C. §1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

Sincerely,

KELLY HERMAN

for

MYLES B. HARMON

Director,

Commercial and Trade Facilitation Division



GENERAL NOTICE

Dates and Draft Agenda of the Forty-Sixth Session of the Harmonized System Committee of the World Customs Organization

AGENCY: 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-sixth 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.

DATES: July 15, 2010

FOR FURTHER INFORMATION CONTACT: Joan A. Jackson, Staff Assistant, Tariff Classification and Marking Branch, U.S. Customs and Border Protection (202–325–0010), 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 classification 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-sixth and it will be held from September 13, 2010 to September 24, 2010.

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.

IEVA K. O'ROURKE,

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

NC1556E1a

46th Session

O. Eng.

Brussels, 9 July 2010.

DRAFT AGENDA FOR THE 46TH SESSION OF THE HARMONIZED SYSTEM COMMITTEE

From : Monday, 13 September 2010 (11.00 a.m.)

To : Friday, 24 September 2010

N.B. : Thursday 9 September (10.00 a.m.) to Friday 10 September 2010 :
 Presessional Working Party (to examine the questions under Agenda
 Item V)

Monday, 13 September 2010 (9:30 a.m. – 10:30 a.m.) : Adoption of the
 Report of the 40th Session of the Review Sub-Committee

I. ADOPTION OF THE AGENDA

- | | |
|--------------------------|-----------|
| 1. Draft Agenda | NC1556E1a |
| 2. Draft Timetable | NC1557B1a |

II. REPORT BY THE SECRETARIAT

- | | |
|---|---|
| 1. Position regarding Contracting Parties to the HS
Convention and related matters | NC1558E1a |
| 2. Report on the last meeting of the Policy Commission
(63 rd Session) and the Council (115 th /116 th Sessions) .. | SP0339E1b
NC1559E1a |
| 3. Approval of decisions taken by the Harmonized
System Committee at its 45 th Session | NG0164E1
Approval of
decisions
taken by the
HSC at its
45 th Session
NC1555E1a |
| 4. Capacity building activities of the Nomenclature and
Classification Sub-Directorate | NC1560E1a |
| 5. Co-operation with other international organisations ... | NC1561E1a |
| 6. New information provided on the WCO Web site | NC1562E1a |
| 7. Annual survey to determine the percentage of
national revenue represented by Customs duties | NC1563E1a |
| 8. Draft corrigendum amendments to the Harmonized
System | NC1564E1a |
| 9. Preparation and timing of HS 2012 publications | NC1565E1a |

<u>III. GENERAL QUESTIONS</u>	
1. Customs in the 21 st Century.....	NC1566E1a
2. Importance of pre-entry classification programmes and possible implementation of the WCO Advance Tariff Ruling Service.....	NC1567E1a
3. Development of Correlation Tables	NC1568E1a
4. Possible new version of the Compendium of Classification Opinions (Second Edition 2003).....	NC1569E1a
<u>IV. REPORT OF THE HS REVIEW SUB-COMMITTEE</u>	
1. Report of the 40 th Session of the Review Sub-Committee.....	NR0828E1b
2. Matters for decision	NC1570E1a
3. Explanatory Note to the new (2012) heading 96.19....	NC1571E1a
<u>V. REPORT OF THE PRESESSIONAL WORKING PARTY</u>	
1. Amendments to the Compendium of Classification Opinions to reflect the decision to classify the products “Mamil® Gold Step 2” and “Dugro 1 Plus Gold™” in heading 19.01 (subheading 1901.10).....	NC1572E1a Annex A
2. Amendments to the Compendium of Classification Opinions to reflect the decision to classify bio-fuel blends in heading 27.10 (subheading 2710.19).....	NC1572E1a Annex B
3. Amendments to the Compendium of Classification Opinions to reflect the decision to classify the “SUAVITEL” in heading 38.09 (subheading 3809.91).	NC1572E1a Annex C
4. Amendments to the Compendium of Classification Opinions to reflect the confirmation of the HSC’s decision to classify “octagonal steel columns for lamp posts” in heading 7308.90	NC1572E1a Annex D
5. Possible amendment of the Explanatory Note to heading 85.07	NC1572E1a Annex E
6. Possible amendment of the Explanatory Notes in respect of “walker-rollators”	NC1572E1a Annex F
7. Possible amendment of the Explanatory Notes in respect of the scope of the new Note 4 to Chapter 95.....	NC1572E1a Annex G
8. Possible amendments to the Explanatory Notes in respect of “ice hockey pants”	NC1572E1a Annex H
<u>VI. REQUESTS FOR RE-EXAMINATION (RESERVATIONS)</u>	
1. Re-examination of the “Scope of headings 22.06 and 22.08” (Request by Canada)	NC1573E1a
2. Re-examination of the “Classification of products containing more than 99.2 % sodium sulphate and more than 98.5 % sodium sulphate, respectively” (Request by the Russian Federation).....	NC1574E1a
3. Re-examination of the “Classification of network analyzers” (Request by the EU).....	NC1575E1a
4. Re-examination of the “Classification of “a Bluetooth” headset” (Requests by the EU and Thailand)	NC1576E1a

5.	Re-examination of the “Classification of two products referred to as “ <u>Bakeshure® 251</u> ” and “ <u>Bakeshure® 419</u> ” (Request by the EU)	NC1577E1a
6.	Re-examination of the “Classification of 18 new INN products (List 100)” (Request by Nigeria).....	NC1578E1a
VII. <u>FURTHER STUDIES</u>		
1.	Application of General Interpretative Rule 2 (a) in respect of the classification of car-assembly sets (Request by the Russian Federation)	NC1579E1a
2.	Possible amendment of the Explanatory Notes in respect of technologies used in the manufacture of ethyl alcohol	NC1580E1a
3.	Classification of certain “motorcycle parts” (Request by Peru)	NC1581E1a
4.	Classification of a dissolution testing unit (Request by Saudi Arabia)	NC1582E1a
5.	Possible amendment of the Explanatory Notes with respect to articles of furniture fitted with wheels (Proposal by Canada).....	NC1583E1a
6.	Classification of certain types of monitors (Request by Norway)	NC1584E1a
7.	Possible amendment to the Explanatory Note to heading 56.08	NC1585E1a
VIII. <u>NEW QUESTIONS</u>		
1.	Possible amendment of the Explanatory Note to heading 73.21 (Proposal by Jordan)	NC1586E1a
2.	Classification of an assembly of two electrical switching devices (Request by Iran).....	NC1587E1a
3.	Possible misalignment between the English and French texts of the Explanatory Note to heading 85.04 (Request by the EU)	NC1588E1a
4.	Classification of tyres for career dump-body trucks (Request by the Russian Federation)	NC1589E1a
5.	Classification of new INN Products (List 101)	NC1590E1a
6.	Classification of new INN Products (List 102)	NC1591E1a
7.	Possible amendments to the Nomenclature (Request by the Organization for the Prohibition of Chemical Weapons).....	NC1592E1a
8.	Classification of “mureletecan (INN List 85)”	NC1593E1a
9.	Classification of a round-shaped particle board referred to as “RT290” (Request by Japan)	NC1594E1a
IX. <u>ADDITIONAL LIST</u>		
X. <u>OTHER BUSINESS</u>		
1.	List of questions which might be examined at a future session	NC1595E1a
XI. <u>DATES OF NEXT SESSIONS</u>		

AGENCY INFORMATION COLLECTION ACTIVITIES:**Passenger and Crew Manifest**

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

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0088.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Passenger and Crew Manifest (Advance Passenger Information System-APIS). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before September 20, 2010, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn.: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs and Border Protection, Attn.: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Passenger and Crew Manifest (Advance Passenger Information System- APIS)

OMB Number: 1651-0088

Form Number: None

Abstract: The Advance Passenger Information System (APIS) is an automated method in which U.S. Customs and Border Protection (CBP) receives information on passengers and crew onboard inbound and outbound international flights before their arrival in or departure from the United States. APIS data includes biographical information for international air passengers arriving in or departing from the United States, allowing the data to be checked against CBP databases.

The information is submitted for both commercial and private aircraft flights. Specific data elements required for each passenger and crew member include: full name; date of birth; gender; citizenship; document type; passport number, country of issuance and expiration date; and alien registration number where applicable.

APIS is authorized under the Aviation and Transportation Security Act, Public Law 107-71. Under this statute, the transmission of passenger and crew manifest information is required even for flights where the passengers and crew have already been pre-screened or pre-cleared at the foreign location for admission to the United States. APIS is required under 19 CFR 122.49a, 122.49b, 122.49c, 122.75a, 122.75b, and 122.22.

Respondents submit their electronic manifest either through a direct interface with CBP, or using eAPIS which is a web-based system that can be accessed at <https://eapis.cbp.dhs.gov/>.

Current Actions: This submission is being made to request an extension, and revise the burden hours as a result of revised estimates by CBP. There are no changes to this information collection.

Type of Review: Extension with a change to the burden hours.

Affected Public: Businesses, Individuals

Commercial Airlines:

Estimated Number of Respondents: 1,130

Estimated Number of Total Annual Responses: 1,850,878

Estimated Time Per Response: 10 minutes

Estimated Total Annual Burden Hours: 307,245

Estimated Costs: \$68,361,719

Commercial Airline Passengers (3rd party):

Estimated Number of Respondents: 184,050,663

Estimated Number of Total Annual Responses: 184,050,663

Estimated Time Per Response: 1 minute

Estimated Total Annual Burden Hours: 3,128,861

Private Aircraft Pilots:

Estimated Number of Respondents: 460,000

Estimated Number of Total Annual Responses: 460,000

Estimated Time Per Response: 15 minutes

Estimated Total Annual Burden Hours: 115,000

Dated: July 14, 2010

TRACEY DENNING
Agency Clearance Officer
U.S. Customs and Border Protection