U.S. Customs and Border Protection

MODIFICATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE ELIGIBILITY OF BOYS' SHIRT AND TIE SETS FOR DUTY-FREE TREATMENT UNDER THE CARIBBEAN BASIN TRADE PARTNERSHIP ACT

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

ACTION: Notice of modification of one ruling letter and revocation of treatment relating to the eligibility of boys' shirt and tie sets for duty-free treatment under the Caribbean Basin Trade Partnership Act ("CBTPA").

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 one ruling letter concerning the eligibility of boys' shirt and tie sets for duty-free treatment under the CBTPA. Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 51, No. 29, on July 19, 2017. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Elif Eroglu, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade, at (202) 325–0277.

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) ("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 public 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, a notice was published in the *Customs Bulletin*, Vol. 51, No. 29, on July 19, 2017, proposing to modify one ruling letter pertaining to the eligibility of boys' shirt and tie sets for duty-free treatment under the CBTPA. As stated in the proposed notice, this action will cover Headquarters Ruling Letter ("HQ") H022665, dated September 17, 2009, as well as 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 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. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical 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 this notice.

In HQ H022665, CBP determined that boys' shirts cut and sewn in El Salvador, and packaged with a tie are eligible for duty-free entry

under the CBTPA subheading 9820.11.24, HTSUS, but not for duty-free entry under the Dominican Republic—Central America—United States Free Trade Agreement ("DR-CAFTA"). CBP has reviewed HQ H022665 and has determined the ruling letter to be partially in error. It is now CBP's position that boys' shirts cut and sewn in El Salvador, and packaged with a tie are eligible for duty-free treatment under CBTPA if entered before March 1, 2006. However, the non-eligibility of the boys' shirt and tie sets under DR-CAFTA and their classification remain in effect.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying HQ H022665 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in the HQ H263569, 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: October 12, 2017

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H263569
October 12, 2017
OT:RR:CTF:VS H263569 EE
CATEGORY: Classification

AREA PORT DIRECTOR
CUSTOMS AND BORDER PROTECTION
1624 EAST SEVENTH AVENUE, SUITE 101
TAMPA, FL 33605

RE: Modification of HQ H022665; Eligibility of shirt and tie sets under CBTPA and DR-CAFTA

DEAR PORT DIRECTOR:

This is in reference to Headquarters Ruling Letter ("HQ") H022665, dated September 17, 2009. HQ H022665 concerns the eligibility of boys' shirt and tie sets for duty-free treatment under the Caribbean Basin Trade Partnership Act ("CBTPA") and the Dominican Republic—Central America—United States Free Trade Agreement ("DR-CAFTA"). We have reviewed HQ H022665 and determined that it is partially incorrect with respect to the CBTPA preference. For the reasons set forth below, we are modifying that ruling letter.

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 of the proposed action was published in the Customs Bulletin, Vol. 51, No. 29, on July 19, 2017. No comments were received in response to the notice.

FACTS:

The subject merchandise consists of boys' shirt and tie sets identified as styles FT 4729, FT 4724 and FT 4184. The shirts are constructed from 55% cotton, 45% polyester 186T or 205T broadcloth, yarn dyed woven fabric containing two or more colors in the warp and/or filling. The weight of the fabric is 108 g/m2. The 186T broadcloth fabric has 43.3 yarns per centimeter in the warp and 29.9 yarns per centimeter in the filling for a total of 73.2 yarns per square centimeter. The 250T broadcloth fabric has 52.4 yarns per centimeter in the warp and 28.3 yarns per centimeter in the filling for a total of 80.7 yarns per square centimeter. All yarns are combed singles and 76 metric. The fabrics are a 1 x 1 plain weave. The looms are broad looms weaving with two harnesses, with no jacquard motion or dobby attachment. The fabrics are bleached white and piece dyed a solid color. The shirts feature a left over right full front opening with seven button closures, a point collar, long sleeves with buttoned cuffs, a pocket on the left chest, and a curved, hemmed bottom. The shirts are packaged with coordinating color, 100% polyester, woven fabric ties. The fabric used to manufacture the shirts is made in China and shipped in rolls to El Salvador where it is cut into component pieces and assembled into finished garments. The removable clip ties are made in China and shipped to El Salvador where they are attached to the shirt. The shirt and tie set is packaged and shipped to the U.S. from El Salvador.

In H022665, CBP ruled that the boys' shirts cut and sewn in El Salvador, and packaged with a tie are eligible for duty-free entry under CBTPA subheading 9820.11.24 of the Harmonized Tariff Schedule of the United States ("HTSUS"), but not for duty-free entry under DR-CAFTA. Additionally, CBP

determined that pursuant to General Rules of Interpretation ("GRI") 3(b), the boys' shirt and tie sets were classified in subheading 6205.20.2031, HTSUSA ("Annotated"), which provides for "Men's or boys' shirts: Other: Dress shirts: Other: Boys'."

ISSUE:

Whether the shirt and tie, imported as a set, are eligible for duty-free treatment under the CBTPA and the DR-CAFTA.

LAW AND ANALYSIS:

I. Eligibility under the CBTPA

The CBTPA provides certain specified trade benefits for countries of the Caribbean region. The Act extends North American Free Trade Agreement ("NAFTA") duty treatment standards to non-textile articles that previously were ineligible for preferential treatment under the Caribbean Basin Economic Recovery Act ("CBERA") and provides for duty and quota-free treatment of certain textile and apparel articles which meet the requirements set forth in Section 211 of the CBTPA (amended 213(b) of the CBERA, codified at 19 U.S.C. § 2703(b)). Beneficiary countries are designated by the President of the United States after having met eligibility requirements set forth in the CBPTA. Eligibility for benefits under the CBTPA is contingent on designation as a beneficiary country by the President of the United States and a determination by the United States Trade Representative ("USTR"), published in the *Federal Register*, that a beneficiary country has taken the measures required by the Act to implement and follow, or is making substantial progress toward implementing and following, certain customs procedures, drawn from Chapter 5 of the NAFTA, that allow the United States to verify the origin of products. Once both these designations have occurred, a beneficiary country is entitled to preferential treatment provided for by the CBTPA. El Salvador was designated as a beneficiary country by Presidential Proclamation 7351 of October 2, 2000, published in the *Federal Register* on October 4, 2000 (65 *Fed. Reg*. 59329). It was determined to have met the second criteria concerning customs procedures by the USTR and thus eligible for benefits under the CBTPA effective October 2, 2000. *See* 65 *Fed. Reg*. 60236.

The provisions implementing the textile provisions of the CBTPA in the HTSUS are contained, for the most part, in subchapter XX, Chapter 98, HTSUS (two provisions may be found in subheading 9802.00.80, HTSUS). The regulations pertinent to the textile provisions of the CBTPA may be found at §§ 10.221 through 10.228 of the CBP Regulations (19 C.F.R. §§ 10.221 through 10.228).

In H022665, counsel stated that the Chinese origin fabric used to manufacture the shirts was in "short supply." The provision commonly referred to as the "NAFTA short supply" provision is contained in subheading 9820.11.24[1], HTSUS. We note that there is no definitive list of "short supply"

[1] Subheading 9820.11.24, HTSUS, provides as follows:

9820:	Articles imported from a designated beneficiary Caribbean Basin Trade Partnership country enumerated in general note 17(a) to the tariff schedule:
9820.11.24	Apparel articles both cut (or knit-to-shape) and sewn or otherwise assembled in one or more such countries, provided that such apparel articles of such fabrics or yarn would be considered an originating good under the terms of

fabrics or yarns for purposes of the North American Free Trade Agreement ("NAFTA"). The determination of these short supply fabrics or yarns is based upon the various provisions of NAFTA and whether, under NAFTA, for the particular apparel article at issue, certain fabrics or yarns may be sourced from outside the NAFTA parties for use in the production of an "originating" good. If sourcing of certain fabrics or yarns outside the NAFTA parties is allowed, then those fabrics or yarns are deemed to be in "short supply."

In H022665, counsel referred to New York Ruling Letter ("NY") M80139, dated February 2, 2006 and NY L84803, dated June 2, 2005, both issued to the broker for KT Group, in which CBP determined the shirt and tie sets were not eligible for duty-free treatment under the CBTPA. Insofar as M80139 did not address whether the fabric used to manufacture the shirt was in "short supply", it is not dispositive of the issue presented herein. Moreover, we have been advised that insufficient information was presented to make a determination whether the fabric used to make the shirt at issue in L84803 was in short supply. As such, the determination in L84803 was issued based on the understanding that neither the shirt nor the tie at issue therein were originating and were therefore ineligible for preferential treatment under the CBTPA.

General Note ("GN") 12(t), HTSUS, sets out the tariff shift rules for determining whether non-originating materials used in the production of a good have been transformed into originating goods under NAFTA, and by extension under the CBTPA.

To determine the applicable tariff shift rule, we must determine the proper classification of the shirt and tie packaged together. The shirts are classifiable under heading 6205, HTSUS, as men's cotton dress shirts and the ties are classifiable under heading 6215, HTSUS, as ties of man-made fabric.

GRI 3 provides for goods that are, prima facie, classifiable in two or more headings. GRI 3(b) provides that goods put up in sets for retail sale shall be classified as if they consisted of the material or component which gives them their essential character. The shirt and tie are considered a set for purposes of classification because they are *prima facie* classifiable in more than one heading, are put together to meet a particular need or carry out a specific activity, and they are packed for sale directly to users without repacking. The essential character of the set is imparted by the shirt because the tie merely accessorizes the shirt.

GN 12 Chapter 62 Rule 3 states in part:

> For purposes of determining origin of a good of this chapter, the rule applicable to that good shall only apply to the component that determines the tariff classification of the good and such component must satisfy the tariff change requirements set out in the rule for that good.

As the shirt provides the essential character to the shirt and tie sets, only the shirt must undergo the tariff shift requirements.

GN 12(t) Chapter 62 states in part:

> (30) A change to subheading 6205.20 through 6205.30 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54, or headings 5508

general note 12(t) to the tariff schedule without regard to the source of the fabric or yarn if such apparel article had been imported from the territory of Canada or the territory of Mexico directly into the customs territory of the United States.

through 5516, 5801 through 5802 or 6001 through 6006, *provided* that the good is both cut and sewn or otherwise assembled in the territory of one or more of the NAFTA parties.

Subheading rule (c) to Gn12(t) Chapter 62 (30) states:

Men's or boys' shirts of cotton (subheading 6205.20) or of man-made fibers (subheading 6205.30) shall be considered to originate if they are both cut and assembled in the territory of one or more of the parties and if the fabric of the outer shell, exclusive of collars or cuffs, is wholly of one or more of the following:

...(c) Fabrics of subheadings 5210.21 or 5210.31, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 70 metric.

The boys' shirts are constructed from fabric of subheading 5210.31, HTSUS. The fabric contains either 73.2 total yarns per square centimeter or 80.7 total yarns per square centimeter and 76 metric yarns. As such, the boys' shirt and tie sets are eligible for duty-free treatment under subheading 9820.11.24, HTSUS, provided they are cut and assembled in El Salvador and they are imported directly to the United States from El Salvador, a CBTPA beneficiary country. We note that El Salvador was removed from the enumeration of designated beneficiary countries under the CBERA and the CBTPA when DR-CAFTA entered into force with respect to El Salvador on March 1, 2006. The imported merchandise in question was entered before and after March 1, 2006. As such, only the entries before March 1, 2006 and on or after October 2, 2000 are eligible for duty-free treatment under the CBTPA.

II. Eligibility under the DR-CAFTA

The DR-CAFTA was signed by the governments of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and the United States on August 5, 2004. The DR-CAFTA was approved by the U.S. Congress with the enactment on August 2, 2005, of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the "Act"), Pub. L. 109–53, 119 Stat. 462 (19 U.S.C. 4001 et seq.). The Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and the United States are currently parties to the agreement.

GN 29 of the HTSUS implements the DR-CAFTA. GN 29(a) states, in relevant part:

Goods for which entry is claimed under the terms of the Dominican Republic-Central America-United States Free Trade Agreement are subject to duty as set forth herein. For the purposes of this note –

(i) originating goods or goods described in subdivision (a)(ii), subject to the provisions of subdivisions (b) through (n) of this note, that are imported into the customs territory of the United States and entered under a provision –

* * *

(B) in chapter 98 or 99 of the tariff schedule where rate of duty or other treatment is specified,

are eligible for the tariff treatment and quantitative limitations set forth therein in accordance with sections 201 through 203, inclusive, of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109–53; 119 Stat. 462)[.]

* * *

GN 29(b) sets forth criteria for determining whether a good (other than agricultural goods provided for in GN 29(a)(ii)) is an originating good for purposes of the DR-CAFTA. GN 29(b) states, in relevant part:

For the purposes of this note, subject to the provisions of subdivisions (c), (d), (m) and (n) thereof, a good imported into the customs territory of the United States is eligible for treatment as an originating good under the terms of this note if –

* * *

(ii) the good was produced entirely in the territory of one or more of the parties to the Agreement, and –

(A) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in subdivision (n) of this note; or

(B) the good otherwise satisfies any applicable regional value content or other requirements specified in subdivision (n) of this note;

and the good satisfies all other applicable requirements of this note

* * *

Subdivision (n) referred to in GN 29(b) sets forth the tariff shift method of qualifying as an originating good under DR-CAFTA. GN 29(m)(viii)(B) is a "short supply" provision that provides an alternative method for an apparel good to qualify as an "originating" good under DR-CAFTA. GN 29(m)(viii)(B) provides:

An apparel good of chapter 61 or 62 of the tariff schedule and imported under heading 9822.05.01 of the tariff schedule shall be considered originating if it is cut or knit to shape, or both, and sewn or otherwise assembled in the territory of one or more of the parties to the Agreement, and if the fabric of the outer shell, exclusive of collars and cuffs where applicable, is wholly of –

(1) one or more fabrics listed in U.S. note 20 to subchapter XXII of chapter 98; or

(2) one or more fabrics formed in the territory of one or more of the parties to the Agreement from one or more of the yarns listed in U.S. note 20 to such subchapter XXII; or

(3) any combination of the fabrics referred to in subdivision (B)(1), the fabrics referred to in subdivision (B)(2) or one or more fabrics originating under this note.

The originating fabrics referred to in subdivision (B)(3) may contain up to 10 percent by weight of fibers or yarns that do not undergo an applicable change in tariff classification set out in subdivision (n) of this note. Any

> elastomeric yarn contained in a fabric referred to in subdivision (B)(1), (B)(2) or (B)(3) must be formed in the territory of one or more of the parties to the Agreement.

Subchapter XXII, chapter 98, U.S. Note 20(a) provides:

> Heading 9822.05.01 shall apply to textile or apparel goods of chapters 50 through 63 and subheading 9404.90 that contain any of the fabrics, yarns or fibers set forth herein, are described in general note 29 to the tariff schedule and otherwise meet the requirements of such general note 29:
>
> * * * (8) Fabrics classified in subheading 5210.21 or 5210.31, not of square construction, containing more than 70 warp ends and filling picks per square cm, of average yarn number exceeding 70 metric[.]

As previously stated, the boys' shirts are constructed from fabric of subheading 5210.31, HTSUS. The fabric contains either 73.2 total yarns per square centimeter or 80.7 total yarns per square centimeter and 76 metric yarns. As such, the boys' shirts constructed from a short supply fabric meet the terms of Subchapter XXII, chapter 98, U.S. Note 20(a). However, the coordinating ties of heading 6215, HTSUS, which are packaged with the shirts do not meet the terms of Note 20(a) because they are not constructed from a fabric listed therein.

GN 29(c)(v), which governs the eligibility of goods put up in retail sets provides, in pertinent part:

> *Goods classifiable as goods put up in sets*.--Notwithstanding the rules set forth in subdivision (n) of this note, goods classifiable as goods put up in sets for retail sale as provided under general rule of interpretation 3 to the tariff schedule shall not be considered to be originating goods unless—
>
> (A) each of the goods in the set is an originating good; or
>
> (B) the total value of the nonoriginating goods in the set does not exceed--
>
> (1) in the case of a textile or apparel good, 10 percent of the adjusted value of the set...

In H022665, counsel stated that the adjusted value of the coordinating ties is approximately 13%. Insofar as Note 29(c)(v) limits the value of the non-originating textile component to 10% of the adjusted value of the set, the shirt and tie set is not eligible for preferential treatment under the terms of GN 29(c)(v).

HOLDING:

The boys' shirts cut and sewn in El Salvador, and packaged with a tie are eligible for duty-free treatment under CBTPA if entered before March 1, 2006 and on or after October 2, 2000, but not for duty-free entry under DR-CAFTA.

Pursuant to GRI 3(b), the boys' shirt and tie sets are classified in heading 6205, HTSUS. They are specifically provided for in subheading 6205.20.2031, HTSUSA (Annotated), which provides for "Men's or boys' shirts: Other: Dress shirts: Other: Boys'." The 2009 general, column one rate of duty is 19.7% *ad valorem*. The textile category code is 340.

EFFECT ON OTHER RULINGS:

HQ H022665, dated September 17, 2009, is hereby MODIFIED with respect to the eligibility of the boys' shirt and tie sets for duty-free treatment under the CBTPA; however, the non-eligibility of the boys' shirt and tie sets under DR-CAFTA and their classification remain in effect.

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

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

19 CFR PART 177

MODIFICATION OF THREE RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF IMITATION WICKER CHAIRS WITH METAL FRAMES

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

ACTION: Notice of modification of three ruling letters, and of revocation of treatment relating to the tariff classification of imitation wicker chairs with metal frames.

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 HQ 952032, dated July 6, 1992, NY N050095, dated February 11, 2009, and NY N125879, dated October 29, 2010, concerning the tariff classification of imitation wicker chairs with metal frames under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 51, No. 31, on August 2, 2017. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–0024.

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) ("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 public 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, a notice was published in the *Customs Bulletin*, Vol. 51, No. 31, on August 2, 2017, proposing to modify three ruling letters pertaining to the tariff classification of imitation wicker chairs with metal frames. As stated in the notice, this action will cover Headquarters Ruling Letter (HQ) 952032, dated July 6, 1992, New York Ruling Letter (NY) N050095, dated February 11, 2009, and NY N125879, dated October 29, 2010, as well as 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 three 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 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. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical 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 this notice.

In HQ 952032, CBP classified three styles of chairs with metal frames covered in plastic imitation wicker in subheading 9401.5, HTSUS, which provides for "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Of cane, osier, bamboo or similar materials." In NY N050095 and NY N125879, CBP applied GRI 3(b) to classify various styles of imitation wicker chairs with metal frames in subheading 9401.79.00, HTSUS, which provides for "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats, with metal frames: Other." CBP has reviewed HQ 952032, NY N050095, and NY N125879, and has determined the ruling letters to be in error. It is now CBP's position that imitation wicker chairs with metal frames are properly classified, by operation of GRI 1, in heading 9401, HTSUS, specifically in subheading 9401.79.00, HTSUS, which provides for "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats, with metal frames: Other."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying HQ 952032, NY N050095, and NY N125879 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H192520, 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: October 17, 2017

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H192520
October 17, 2017
CLA-2 OT:RR:CTF:TCM H192520 CkG
CATEGORY: Classification
TARIFF NO: 9401.79.00

SHAKETHA MILES
IMPORT COMPLIANCE SPECIALIST
PIER 1 IMPORTS
P.O. BOX 961020
FORT WORTH, TX 76161–0020

RE: Modification of HQ 952032, NY N125879, and NY N050095; classification of plastic imitation wicker chairs with metal frames

DEAR MS. MILES:

This is in reference to your request of September 27, 2011, for the reconsideration of Headquarters Ruling Letter (HQ) 952032, issued to Pier 1 Imports on July 6, 1992. In HQ 952032, CBP classified several items of a plastic imitation wicker and metal furniture in subheading 9401.50.00, HTSUS[1], as seats of cane, bamboo, or similar materials, by application of GRI 3. You argue that the correct classification of item no. 1025789 is in subheading 9401.79.00, HTSUS, at GRI 1.

We have also considered New York Ruling Letters (NY) N050095, issued on February 11, 2009, to Bed, Bath & Beyond, and NY N125879, issued to Costco Wholesale on October 29, 2010, regarding the use of GRI 3 to classify chairs with metal frames and covered in plastic "wicker". In accordance with the analysis below, we are modifying HQ 952032 with respect to the classification of item nos. 1025789, 1025791 and 1025813; NY N050095 with respect to the classification of item nos. 16452912 and 1645904; and NY N125879 with respect to the two chairs in the patio set identified as item # 538109.

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 HQ 952032, NY N125879, and NY N050095 was published on August 2, 2017, in Volume 51, Number 31 of the Customs Bulletin. No comments were received in response to this notice.

FACTS:

HQ 952032 described items 1025789, 1025791 and 1025813 as follows:

> The merchandise consists of combination wrought iron and wicker furniture. Style number 1025789 is a wrought iron chair, the seat and back of which are covered with wicker. The wicker covers most of the iron frame except for a small portion at the front of the armrests and the back legs. The iron front legs are covered with a wicker skirt so that only the feet show. Style number 1025791 is a wrought iron framed settee. As in style 1025789, the entire frame, except for the bottom feet, back legs, and armrests are covered with wicker. Both styles are shown with cushioned

[1] "Seats of cane, osier, bamboo or similar materials" are provided for in the 2017 HTSUS at the 5-digit subheading level, with new six-digit subheadings 9401.52, 9401.53, and 9401.59, for seats of bamboo, rattan and "other", respectively.

seats which apparently are not imported. Style 1025813 is a wrought iron framed Bistro armchair. The entire frame is exposed except for a back rest and seat which are made of wicker.

In your submission of September 28, 2011, you further clarify that the "wicker" material covering the seat and back of the iron-framed chairs at issue in HQ 952032 is a plastic material.

NY N050095 described the two seats at issue as follows:

> All...items are composed of a steel frame which is completely covered by polyethylene wicker. SKU number 16452912 is a set of chairs and SKU 1645904 is a love seat, both will be sold with a textile cushion seat with back pillows.

In NY N125879, the subject merchandise was described as follows:

> Item number 538109 is described as a metal frame resin "wicker" furniture patio set. The set includes (A) two chairs, (B) two ottomans, (C) a sofa and (D) a table. The merchandise is described as follows:
>
> (A) The chairs have an aluminum frame with only the arms and legs exposed. The seat and the back rest are wrapped with a plastic resin material designed to look like actual wicker. There is nothing between the aluminum frame and the resin wicker; no wadding, padding or furniture foam of any kind. There are textile seat and back cushions that are to be used with the chair, but the cushions are removable.

ISSUE:

Whether the instant metal framed chairs are classified in subheading 9401.59, HTSUS, as seats of cane, osier, bamboo or similar materials, or in subheading 9401.79, HTSUS, as other seats with a metal frame.

LAW AND ANALYSIS:

Merchandise imported into the United States is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context which requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law for all purposes.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in their appropriate order. GRI 3 provides, in pertinent part, that composite goods consisting of different materials or made up of different components shall be classified as if they consisted of the material or component which gives them their essential character. GRI 6 provides that classification of goods in the subheading of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and mutatis mutandis, to GRIs 1 through 5.

The HTSUS provisions under consideration are as follows:

9401:	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:

	Seats of cane, osier, bamboo or similar materials:
9401.52.00:	Of bamboo...
9401.53.00:	Of rattan...
9401.59.00:	Other...
	Other seats, with metal frames:
9401.71.00:	Upholstered...
9401.79.00:	Other...

* * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the HTSUS. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of the headings. It is Customs and Border Protection (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. See, T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 94.01 provides, in pertinent part, as follows:

> **Subject** to the exclusions mentioned below, this heading covers all seats (including those for vehicles, provided that they comply with the conditions prescribed in Note 2 to this Chapter), for example:
>
> Lounge chairs, arm-chairs, folding chairs, deck chairs, infants' high chairs and children's seats designed to be hung on the back of other seats (including vehicle seats), grandfather chairs, benches, couches (including those with electrical heating), settees, sofas, ottomans and the like, stools (such as piano stools, draughtsmen's stools, typists' stools, and dual purpose stool-steps), seats which incorporate a sound system and are suitable for use with video game consoles and machines, television or satellite receivers, as well as with DVD, music CD, MP3 or video cassette players.

* * * *

There is no dispute that the instant chairs are classifiable in heading 9401, HTSUS, at GRI 1. The issue arises at the subheading level; i.e., whether the instant chairs are "of cane, osier, bamboo or similar materials" for the purposes of subheading 9401.5, HTSUS, or whether they are "other seats, with metal frames", for the purposes of subheading 9401.7, HTSUS.

In HQ 952032, CBP determined that the chairs were classified in subheading 9401.50.00, HTSUS, as seats "of" similar materials to bamboo, cane, or osier, by application of GRI 3(b). You argue that the correct classification of style no. 1025789 is in subheading 9401.79.00, HTSUS, at GRI 1. We agree, and further find that items 1025789, 1025791 and 1025813, as non-upholstered seats with metal frames, are all *eo nomine* provided for, at GRIs 1 and 6, in subheading 9401.79, HTSUS. It is therefore not necessary to resort to GRI 3 and an essential character analysis.

First, we note that classification in subheading 9401.5 is incorrect, at GRI 1 or GRI 3, because the instant chairs are not composed, in whole or in part, of a material similar to cane, osier, bamboo or rattan. Bamboo, osier, cane and rattan are all natural plant fibers. The "wicker" material covering the chairs is made of plastic, crafted to resemble a natural plant material. "Wicker" is variously defined as:

1. a slender, pliant twig; osier; withe.

2. plaited or woven twigs or osiers as the material of baskets, chairs, etc.; *wickerwork*.

3. something made of *wickerwork*, as a basket.

http://dictionary.cambridge.org/dictionary/english/wicker.

As such, a "wicker" chair or other article describes an article made with the technique of weaving or braiding materials such as bamboo or rattan. Plastic wicker is typically made from PVC or polyethylene. Even if we consider articles made in this style with a synthetic material to constitute an article of wicker, the term "wicker" does not itself appear in the tariff. In order to be classified in subheading 9401.5, an article must be made of either "of" the specified materials, or a similar material. We do not find plastic or resin to be a material similar to wood or other natural plant fibers. CBP has consistently held that such material is classified as a plastic, and not as a wood or other plant fiber. *See e.g.*, NY N269023, dated October 16, 2015; NY N266674, dated August 12, 2015; NY N248506, dated December 12, 2013.

Thus, a chair with a frame of metal and backs or seats of plastic is not classified in subheading 9401.5, HTSUS, at either GRI 1 or GRI 3, because it does not meet the terms of the subheading. At GRI 1, subheading 9401.7 provides for "other" seats—i.e. seats not "of" bamboo or a similar material—with metal frames.

Although the HS does not define either the term "seat" or "frame", the Explanatory Note to heading 9401 indicates that "seat" and chair" are used interchangeably in the context of this heading. Similarly, the Merriam-Webster Dictionary Online defines "seat" as "a chair, stool, or bench intended to be sat in or on", and "chair" as "a seat typically having four legs and a back for one person; any of various devices that hold up or support." *See https://www.merriam-webster.com/dictionary/seat; https://www.merriam-webster.com/dictionary/chair*. "Frame" in turn is defined as "the underlying constructional system or structure that gives shape or strength (as to a building)." *See https://www.merriam-webster.com/dictionary/frame*. The frame is therefore the constructional system that gives shape or support to a chair (seat), but which will not in all instances be able to fulfill the purpose of a seat or chair; that is, to support or hold up a mass, esp. a person. Additional materials and components may cover the frame to make it more functional as an actual seat. Therefore, a chair with a metal frame and a seat or back of plastic is provided for, at GRI 1, in subheading 9401.7. The instant articles, as non-upholstered chairs with metal frames covered in plastic, fall within subheading 9401.79, HTSUS.

HQ 952032 cites to HQ 086657, dated July 13, 1990, in support of classification of the items at issue in subheading 9401.50.00, HTSUS. In HQ 086657, CBP classified trunks with wood frames and bottoms covered with a fern or wicker plaiting material in subheading 9403.80, HTSUS, as furniture of other materials, including cane, osier, bamboo or similar materials. This ruling is inapplicable to the instant merchandise because there is no indication that the plaiting material discussed in HQ 952032 was made of plastic. Furthermore, heading 9403, HTSUS, does not contain a subheading for furniture with frames or other components of metal or of any other material; the only subheadings under heading 9403, HTSUS, which reference materials provide for furniture "of" plastics, metal, or other materials, or for wooden

furniture. Thus, any furniture of heading 9403 incorporating various such materials is appropriately classified pursuant to GRI 3. When, as is the case with heading 9401, a tariff provision explicitly references an item with components of a specific material, classification at GRI 1 is appropriate for that item.

In NY N050095 and NY N125879, the classification of the metal framed chairs with plastic imitation wicker in subheading 9401.79.00, HTSUS, was ultimately correct; however, as noted above, resort to GRI 3 was unnecessary, as the items are classified in subheading 9401.79.00, HTSUS, at GRI 1.

HOLDING:

By application of GRIs 1 and 6, style numbers 1025789, 1025791 and 1025813 (HQ 952032), item nos. 16452912 and 1645904 (NY N050095), and the two chairs of item # 538109 (NY N125879) are classified in heading 9401, HTSUS, specifically subheading 9401.79.00, HTSUS, which provides for "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats, with metal frames: Other." The 2017, column one, general rate of duty is Free.

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

EFFECT ON OTHER RULINGS:

HQ 952032, dated July 6, 1992, is hereby modified with respect to items 1025789, 1025791 and 1025813.

NY N050095, dated February 11, 2009, is hereby modified with respect to the incorrect use of GRI 3 to classify items 16452912 and 1645904.

NY N125879, dated October 29, 2010, is hereby modified with respect to the incorrect use of GRI 3 to classify the two chairs of item # 538109.

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

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

19 CFR PART 177

REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF LAWN MOWER TIRES

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

ACTION: Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of lawn mower tires.

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 Modern-

ization) 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 revoking Headquarters Ruling Letter (HQ) H156538, dated June 13, 2012, concerning the tariff classification of lawn mower tires under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 51, No. 31, on August 2, 2017. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–0024.

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) ("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 public 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, a notice was

published in the *Customs Bulletin*, Vol. 51, No. 31, on August 2, 2017, proposing to revoke one ruling letter pertaining to the tariff classification of lawn mower tires. As stated in the proposed notice, this action will cover Headquarters Ruling Letter ("HQ") H156538, dated June 13, 2012, as well as 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 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. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical 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 this notice.

In HQ H156538, CBP determined that lawn mower tires did not qualify for duty free treatment under the special classification provision of subheading 9817.00.60, HTSUS, which provides for parts to be used in articles provided for in heading 8433, HTSUS. CBP has reviewed HQ H156538 and has determined the ruling letter to be in error. It is now CBP's position that the instant lawn mower tires are eligible for duty free treatment under subheading 9817.00.60, HTSUS.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking HQ H156538 and revoking or modifying any other ruling not specifically identified related to such merchandise to reflect the analysis contained in HQ H264768, 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: October 17, 2017

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H264768
October 17, 2017
CLA-2 OT:RR:CTF:CPM H264768 CkG
CATEGORY: Classification
TARIFF NO: 4011.90.80, 9817.00.60

MYRON PAUL BARLOW, ESQ.
BARLOW & CO, LLC
550 M RITCHIE HIGHWAY, #114
SEVERNA PARK, MD 21146

RE: Revocation of HQ H156538; classification of tires for lawn mowers

DEAR MR. BARLOW,

This is in reference to Headquarters Ruling Letter (HQ) H156538, issued to the Port Director in Atlanta, Georgia on June 13, 2012. HQ H156538 was issued in response to the Application for Further Review of Protest No. 1704–10–100242 filed on behalf of Monitor Manufacturing Corp. ('Protestant"). In HQ H156538, CBP determined that 97 entries of tires for lawn mowers were classified in subheading 4011.99.85, Harmonized Tariff Schedule of the United States (HTSUS), as "other" pneumatic tires, of rubber. Since the issuance of that ruling, Customs and Border Protection (CBP) has reviewed the classification of these items and has determined that the cited ruling is in error.

HQ H156538 is a decision on a specific protest. A protest is designed to handle entries of merchandise which have entered the United States and been liquidated by CBP. A final determination of a protest, pursuant to Part 174, Customs Regulations (19 CFR 174), cannot be modified or revoked as it is applicable only to the merchandise which was the subject of the entry protested. Furthermore, CBP lost jurisdiction over the entries protested in HQ H156538 when notice of disposition of the protest was received by the protestant. *See, San Francisco Newspaper Printing Co. v. U.S.*, 9 CIT 517, 620 F. Supp. 738 (1985). However, CBP can modify or revoke a protest review decision to change the legal principles set forth in the decision. Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), 60 days or more after the date of issuance, CBP may propose a modification or revocation of a prior interpretive ruling or decision by publication and solicitation of comments in the Customs Bulletin. This modification will not affect the entries which were the subject of Protest 1704–10–100242, but will be applicable to any entries of similar merchandise made 60 days after publication of the final notice of revocation in the Customs Bulletin.

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 HQ H156538 was published on August 2, 2017, in Volume 51, Number 31 of the Customs Bulletin. No comments were received in response to this notice.

FACTS:

At issue are 31 models of tires for use on lawn mowers, of the following four styles: Kenda K358 Turf Rider, Kenda K401, Kenda K404, and the Kenda Super Turf K500. The tires are designed for low speed (normally 10 mph or less) turf application, and range in size from 13 to 24 inches in diameter, with a maximum load limit of 1340 lbs.

ISSUE:

1. Whether the subject tire styles are classified in subheading 4011.70.00, HTSUS, as tires of a kind used on agricultural or forestry vehicles and machines, or in subheading 4011.90.00, HTSUS, as other tires.
2. Whether the subject tires are subject to the special duty provision of subheading 9817.00.60, as parts of a machine of heading 8433, HTSUS.

LAW AND ANALYSIS:

Classification of goods under the HTSUS is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification 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 2017 HTSUS provisions under consideration[1] are as follows:

4011:	New pneumatic tires, of rubber:
4011.70.00:	Of a kind used on agricultural or forestry vehicles and machines
4011.90:	Other:
4011.90.10:	Having a herring-bone or similar tread...
4011.90.20:	Radial...
4011.90.80:	Other...
	* * * *
9817.00.60:	Parts to be used in articles provided for in headings 8432, 8433, 8434 and 8436, whether or not such parts are principally used as parts of such articles and whether or not covered by a specific provision within the meaning of additional U.S. rule of interpretation 1(c).

* * * * *

Additional U.S. Rule of Interpretation 1(b) states, in pertinent part:

(b) A tariff classification controlled by the actual use to which the imported goods are put in the United States is satisfied only if such use

[1] Due to changes in the 2017 HTSUS, the relevant tariff provisions under heading 4011 for, *inter alia*, tires of a kind used on agricultural vehicles and machines and "other" tires, have been changed. Specifically, subheading 4011.92.00 is now subheading 4011.70.00, and subheading 4011.99.85 is now subheading 4011.90.80.

is intended at the time of importation, the goods are so used and proof thereof is furnished within 3 years after the date the goods are entered;

U.S. Note 2(t) to Subchapter XVII of Chapter 98, Section XXII provides:

2. The provisions of headings 9817.00.50 and 9817.00.60 do not apply to:

(t) Articles provided for in subheadings 8419.81.50, 8419.81.90, 8427.10, 8427.20, 8427.90 and 8431.20, headings 8432, 8433 and 8434, subheadings 8435.10 and 8435.90, heading 8436, subheadings 8438.80, 8468.10, 8472.90.40 and 8479.89, subheadings 8482.10.10 through 8482.99.65 (other than subheading 8482.91) and subheadings 8483.10.50 and 8487.10

* * * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs), constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of the headings. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The General Explanatory Note to Section XVI provides, in pertinent part, as follows:

The Section **does not**, however, **cover**:

(a) Transmission or conveyor belts or belting, of plastics (Chapter 39); articles of unhardened vulcanised rubber (e.g., transmission or conveyor belts or belting) (heading *40.10*), rubber tyres, tubes, etc. (headings *40.11* to *40.13*) and washers, etc. (heading *40.16*).

The EN to heading 8433 provides, in pertinent part, as follows:

This heading covers machines used in place of hand tools, for the mechanical performance of the following operations:

(A) Harvesting of agricultural crops (e.g., reaping, croplifting, gathering, picking, threshing, binding or bundling). Hay or grass mowers, and straw or fodder balers are also included in this heading.

(B) Machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, **other than** machinery of heading 84.37.

The provisions of Explanatory Note to heading 84.32 apply, *mutatis mutandis*, to this heading.

The EN to heading 8432, HTSUS, provides, in pertinent part:

This heading covers machines, whatever their mode of traction, used in place of hand tools, for one or more of the following classes of agricultural, horticultural or forestry work, viz.:

(I) Preparing the soil for cultivation (clearing, breaking, tilling, ploughing, loosening, etc.).

(II) Spreading or distributing fertilisers, including manure, or other products to improve the soil.

(III) Planting or sowing.

(III) The working or maintenance of the soil during the growing period (hoeing, weeding, cleaning etc.).

* * * * *

In HQ H156538, CBP determined that the instant tires were properly classified in subheading 4011.99.85 (now subheading 4011.90.80, HTSUS), as "other" pneumatic tires, and not, as protestant claimed, in subheading 4011.92.00 (now subheading 4011.70.00, HTSUS), as tires of a kind used on agricultural machines. As discussed in HQ H156538, the tires at issue are of a kind principally used on lawn and garden tractors. Lawn and garden vehicles are not used for raising livestock, cultivating the soil, or raising crops. They are used to groom and care for lawns, which is an ornamental purpose. As such, tires for lawn and garden vehicles are not of a kind used on agricultural vehicles or machinery and are thus not classified in subheading 4011.70.00, HTSUS. As the tires at issue do not have a herring-bone tread they are classified in subheading 4011.90.80, HTSUS, as "other" pneumatic tires.

In HQ H156538, Protestant also presented an alternative claim for duty free treatment under the special classification provision of subheading 9817.00.60, HTSUS, an actual use provision provided for in Additional U.S. Rule of Interpretation 1(b). Subheading 9817.00.60, HTSUS, provides for parts to be used in articles provided for in heading 8433, HTSUS. CBP determined in HQ H156538 that the conditions of subheading 9817.00.60 were not met with respect to the instant articles, because they were not classifiable as parts of heading 8433, HTSUS. We have reconsidered this decision, and have determined that it was in error.

CBP requires that in order for an article to be classified in subheading 9817.00.60, it must satisfy the following three-part test[2]:

1) The article must not be among the long list of exclusions to heading 9817.00.50 or 9817.00.60 under Section XVII, Chapter 98, Subchapter XVII, U.S. Note 2;[3]

2) The terms of subheading 9817.00.60 must be met in accordance with GRI 1; and

3) The merchandise must meet the actual use conditions required in accordance with sections 10.131–10.139 of the Customs Regulations (19 CFR §§10.131–10.139).

A good must satisfy each part of the test. If a good fails any part of the test, then it is treated according to its primary classification.

Articles provided for in heading 8433 are excluded from subheading 9817.00.60 pursuant to U.S. Note 2(t) to Subchapter XVII of Chapter 98. While the instant tires could be considered parts of an article of heading 8433, HTSUS, the exclusion in Note 2(t) refers only to "articles" and not "parts", and the primary classification of the tires is not in heading 8433.

[2] *See e.g.*, HQ 086211, dated March 24, 1990; HQ 950216 December 19, 1991; HQ H009832, dated January 16, 2009.

[3] If the primary classification of an article is within one of the provisions enumerated in Note 2, it has failed the first part of the test.

Therefore, the lawn mower tires at issue do not fall within the exclusions enumerated in Section XXII, Chapter 98, Subchapter XVII, U.S. Note 2, and thus satisfy the first part of the test.

The instant tires also satisfy the terms of subheading 9817.00.60, which has two parts to it: the article under consideration must 1) qualify as a part; 2) to be used with an article of headings 8432, 8433, 8434, or 8436. With respect to the first part of the subheading, a part must be either: an integral, constituent, or component part, without which the article to which it is to be joined, could not function as such article (see *United States v. Willoughby Camera Stores, Inc*., 21 C.C.P.A. 322 (1933), or it must be dedicated solely for use with another article (see *United States v. Antonio Pompeo*, 43 C.C.P.A. 9 (1955). In this case, the instant tires are both integral parts without which the lawn mowers could not function, and they are dedicated solely or principally for use with the lawn mowers. Although they would not be classified as parts in heading 8433 due to Additional Rule of Interpretation 1(c) and Note 1(a) to Section XVI, if the tires satisfy the three-part test articulated above, they are classified in subheading 9817.00.60 even if they would otherwise be excluded from classification in heading 8433, HTSUS.

As regards the second part of subheading 9817.00.60, lawn mowers are provided for in heading 8433, HTSUS, and therefore the lawn mower tires are parts to be used in an article provided for in heading 8433, HTSUS.

Finally, the protestant has also provided evidence that the instant lawn mower tires satisfy the actual use criteria required in accordance with sections 10.131–10.139 of the Customs Regulations (19 CFR §§10.131–10.139), so the third part of the three-part test above is satisfied.

In conclusion, the instant lawn mower tires are eligible for duty free treatment under subheading 9817.00.60, HTSUS.

HOLDING:

The Kenda K358 Turf Rider, Kenda K401, Kenda K404, and the Kenda Super Turf K500 tires are eligible for duty free treatment under subheading 9817.00.60, HTSUS, which provides for "Parts to be used in articles provided for in headings 8432, 8433, 8434 and 8436, whether or not such parts are principally used as parts of such articles and whether or not covered by a specific provision within the meaning of additional U.S. rule of interpretation 1(c)."

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

EFFECT ON OTHER RULINGS:

H156538, dated June 13, 2012, is hereby revoked.

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

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

cc: U.S. Customs and Border Protection
Port of Atlanta
4341 International Parkway
Suite 600
Atlanta, GA 30354
Attn: Aineda Hanxard

19 CFR PART 177

REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF DOCUMENT HOLDER OR MULTI-FUNCTION FOLDER WITH A MEMORANDUM PAD

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

ACTION: Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of a document holder or multi-function folder with a memorandum pad.

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 revoking one ruling letter concerning tariff classification of a document holder or multi-function folder with a memorandum pad under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 51, No. 31, on August 2, 2017. No comments supporting the proposed revocation were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Michele Boyd, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–0136.

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) ("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 public 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, a notice was published in the *Customs Bulletin*, Vol. 51, No. 37, on August 2, 2017, proposing to revoke one ruling letter pertaining to the tariff classification of a document holder or multi-function folder with a memorandum pad. As stated in the notice, this action will cover New York Ruling Letter ("NY") N106619, dated June 15, 2010, as well as 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 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. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical 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 this notice.

In NY N106619, CBP classified a document holder or multi-function folder with a memorandum pad in heading 4820, HTSUS, specifically in subheading 4820.10.2040, HTSUS, which provides for "Other note books with dimensions of 152.4–381 mm (6"–15") inclusive (small side) X222.5–381 mm (8.75"-15"), inclusive (large side)." CBP has reviewed NY N106619 and has determined the ruling letter to be in error. It is now CBP's position that a document holder or multi-function folder with a memorandum pad is properly classified, by operation of GRIs 1 and 6, in heading 4820, HTSUS, specifically in subheading 4820.10.2020, HTSUS, which provides for "Memorandum pads, letter pads and similar articles."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N106619 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H252610, 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: October 17, 2017

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H252610
October 17, 2017
CLA-2 OT:RR:CTF:CPM: HQ H252610 MAB
CATEGORY: Classification
TARIFF NO.: 4820.10.2020

MS. ERIN CARRICO
CUSTOMS COMPLIANCE ANALYST
DOLLAR TREE STORES, INC.
500 VOLVO PARKWAY
CHESAPEAKE, VA 23320

RE: Revocation of NY N106619; tariff classification of document holder with a memorandum pad from China

DEAR MS. CARRICO:

On June 15, 2010, U.S. Customs and Border Protection (CBP) issued Dollar Tree Stores, Inc., New York Ruling Letter (NY) N106619, dated June 15, 2010. The ruling pertains to the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) of a document holder with a memorandum pad imported from China, also referred to as a multi-function folder (SKU 26596). We have reviewed your request for reconsideration dated January 15, 2014, in regard to the instant merchandise at issue. We have also examined the sample you provided. We find NY N106619 to be in error with respect to the tariff classification. For the reasons set forth below, we are revoking NY N106619.

Pursuant to Section 1625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that CBP is revoking the above noted ruling concerning the classification of reusable bags of woven polypropylene strips used for yard waste and recycling, under the HTSUS. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed revocation was published on August 2, 2017, in Volume 51, Number 31, of the *Customs Bulletin*. No comments were received in response to the notice.

FACTS:

In NY N106619 CBP found the following:

> The submitted sample is product SKU number 26596, described as a plastic document case containing a pad of 30 sheets of lined paper. The case itself has a plastic accordion file with tabs, a mesh pocket with a zipper closure, three pockets that can hold cards measuring up to 4 ¼ inches in width and pockets to fold pencils/pens on the inside left of the case and the pad is on the inside right when the case is opened. The case measures approximately 13 ½ inches by 11 ½ inches it is closed. It is approximately 1 ½ inches deep.
>
> The applicable subheading for the plastic document case with notepad will be 4820.10.2040, Harmonized Tariff Schedule of the United States (HTSUS)....the rate of duty will be Free.

Additional information provided with your submission asserts that subsequent to NY N106619, NY rulings N179575 (dated September 9, 2011) and

N245528 (dated August 20, 2013) addressed similar items. Both rulings found the essential character of this type of merchandise to be the note pad, therefore classifying them in 4820.10.2020, HTSUSA (Annotated), as a note pad and not a note book.

ISSUE:

Whether the subject document holder with a memorandum pad is considered "Memorandum pads, letter pads and similar articles" of subheading 4820.10.2020, HTSUS, or "Other note books with dimensions of 5–381 mm (6" – 15"), inclusive (small side) X 222.5–381 mm (8.75" – 15"), inclusive (large side)" of subheading 4820.10.2040, HTSUS.

LAW AND ANALYSIS:

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

4820	Registers, account books, notebooks, order books, receipt books, letter pads, memorandum pads, diaries and similar articles, exercise books, blotting pads, binders (looseleaf or other), folders, file covers, manifold business forms, interleaved carbon sets and other articles of stationery, of paper or paperboard; albums for samples or for collections and book covers (including cover boards and book jackets) of paper or paperboard:
4820.10	Registers, account books, notebooks, order books, receipt books, letter pads, memorandum pads, diaries and similar articles:
4820.10.20	Diaries, notebooks and address books, bound; memorandum pads, letter pads and similar articles
4820.10.2020	Memoradum pads, letter pads and similar articles
4820.10.2040	Other note books with dimensions of 152.4–381 mm (6" -15"), inclusive (small side) X 222.5–381 mm (8.74" – 15"), inclusive (large side)

Because the instant classification dispute occurs beyond the four-digit heading level, GRI 6 is implicated. GRI 6 states:

> For legal purposes, 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 subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter, and subchapter notes also apply, unless the context otherwise requires.

There is no dispute that the goods at issue are document holders and are properly classified in heading 4820, HTSUS. Further, there is no dispute they are classified in subheading 4820.10.20 as "Diaries, notebooks and address books, bound; memorandum pads, letter pads and similar articles." Therefore, CBP's analysis turns to whether the subject document holders or multifunction folders are classified at the 10-digit level under subheading

4820.10.2020, HTSUSA, which provides for "Memorandum pads, letter pads and similar articles" or under subheading 4820.10.2040, HTSUSA, which provides for "Other note books with dimensions of 5–381 mm (6" – 15"), inclusive (small side) X 222.5–381 mm (8.75" – 15"), inclusive (large side)."

The HTSUS does not define the term "memorandum pads" but the terms of the HTSUS are construed according to their common commercial meaning. *See Millennium Lumber Distrib. Ltd. v. United States,* 558 F.3d 1326, 1329 (Fed. Cir. 2009). To ascertain the common commercial meaning of a tariff term, CBP, "may rely on its own understanding of the term as well as lexicographic and scientific authorities." *See Len-Ron Mfg. Co. v. United States,* 334 F.3d 1304, 1309 (Fed. Cir. 2003). A memorandum pad is defined as a "pad of paper intended for writing memos"[1] or it can be "a block with tear-off pages for writing notes on."[2]

CBP has had occasion to distinguish between similar products and has been consistent with its classification of document holders or portfolios. *See* NY N245528, dated August 30, 2013, which classified two (2) black zippered portfolios, each with a removable writing pad that measured 8 ½' x 11 3/4", under subheading 4820.10.2020, HTSUSA, which provides for "Memorandum pads, letter pads and similar articles." *See also* NY N179575, dated September 9, 2011, where CBP classified a portfolio with a notepad measuring 7" x 9" and removable tablet holder measuring 7 ½" x 9 ¾" under subheading 4820.10.2020, HTSUSA, as "Memorandum pads, letter pads and similar articles." In both NY N245528 and NY N179575, CBP applied the GRI 3(b) analysis, finding that although the portfolios were multi-functional, their essential character was imparted by the writing pad.

We find the importer's description of the article to be accurate as compared to the sample provided. The document holder or multi-function folder's specific use is the facilitation of taking and organizing notes. The article's use is centered on the memorandum pad, a named exemplar under heading 4820. The article's other parts, its sheeting, pouches and folder, merely serve to enhance the article's primary use, which is to provide a convenient and organized method by which to take notes in various locations in a variety of circumstances. The article has three small punches and a hold for a pen and pencil or other small supplies. Its tabbed folders restrict use of the multi-function folder to holding or organizing papers, such as notes from the memorandum pad, and its sheeting protects the memorandum pad folders. For these reasons, we find that the imported article, as a whole, exhibits characteristics of an article of stationery, of paper or paperboard, and shares the common characteristics of a memorandum pad. Thus, instant merchandise is properly classified under subheading 4820.10.2020, HTSUSA, which provides for, "Memorandum pads, letter pads and similar articles."

Additionally, please note that the subject document holder with a memorandum pad from China may fall within the scope of antidumping order, A-570–901, published on October 31, 2013, from China. *See* 78 FR 65274. We highly recommend that you obtain a scope ruling from the U.S. Department of Commerce, International Trade Administration (ITA), which issues written decisions regarding the scope of antidumping and countervailing (AD/CVD) orders. Scope rulings issued by the ITA are separate from tariff classification rulings issued by CBP. You may contact the ITA at

[1] *See* https://en.oxforddictionaries.com/definition/us/memo_pad

[2] *See also,* https://www.collinsdictionary.com/us/dictionary/english/memo-pad

http://www.trade.gov/ia/ (click on "Contact Us"). For further information, you may view a list of current AD/CVD cases at the United States International Trade Commission website at http://www.usitc.gov (click on "Antidumping and countervailing duty investigations"), and you can search AD/CVD deposit and liquidation messages using the AD/CVD Search tool at http://addcvd.cbp.gov/.

HOLDING:

Under the authority of GRIs 1 and 6, the subject document holder is properly classifiable under subheading 4820.10.2020, HTSUSA, which provides for "Memorandum pads, letter pads and similar articles." The 2017 column one general rate of duty is *free*.

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 N106619, dated June 15, 2010 is hereby REVOKED.

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

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

PROPOSED REVOCATION OF A RULING LETTER AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE CLASSIFICATION OF A HANDBAG AND A TOTE BAG WITH A COIN PURSE, SPECTACLE CASE, AND IDENTIFICATION CARD CASE

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

ACTION: Notice of proposed revocation of a ruling letter and revocation of treatment relating to the classification of a handbag and tote bag with a coin purse, spectacle case, and identification card case.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke one ruling letter concerning tariff classification of a handbag and tote bag with a coin purse, spectacle case, and identification card case, under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously

accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before December 1, 2017.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Michelle Garcia, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–1115.

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) ("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 public 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, this notice advises interested parties that CBP is proposing to revoke a ruling letter pertaining to the tariff classification of a handbag and tote bag with

a coin purse, spectacle case, and identification card case. Although in this notice, CBP is specifically referring to New York Ruling Letter (NY) N024929, dated April 14, 2008 (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 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 proposing 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 NY N024929, dated April 14, 2008, CBP classified a handbag and a tote bag with a coin purse, spectacle case, and identification card case in heading 4202, HTSUS.

Specifically, the handbag of style HB18102C was classified in subheading 4202.22, HTSUS, which provides, in part, for "Handbags, whether or not with shoulder strap, including those without handle." The tote bag of style HB18103C, was classified in subheading 4202.92, HTSUS, which provides, in part, for "Other" bags. The coin purse, spectacle case, and identification card case for the handbag of style HB18102C and the tote bag of style HB18103C were classified in subheading 4202.32, HTSUS, which provides, in part, for "Articles of a kind normally carried in the pocket or in the handbag." CBP has reviewed NY N024929 and has determined the ruling letter to be in error. It is now CBP's position that the styles at issue are classified as a set and that it is the handbag or tote bag that imparts the essential character to the set.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N024929, dated April 14, 2008, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H263986, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing 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: October 17, 2017

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N024929

April 14, 2008
CLA-2–42:OT:RR:NC:N3:341
CATEGORY: Classification
TARIFF NO.: 4202.22.8050, 4202.92.3031,
4202.32.9550, 4202.32.1000

SANDRA COBS
KOHL'S DEPARTMENT STORE
N56 W17000 RIDGEWOOD DRIVE
MENOMONEE FALLS, WI 53051

RE: The tariff classification of a handbag and tote bag with accessories from China

DEAR MS. COBS:

In your letter dated March 19, 2008, you requested a classification ruling.

The samples submitted are referred as style HB18102C and HB18103C. Both styles are imported with a coin purse, spectacle case, and an identification card case. You have indicated in your letter that the above items are a set. However, for classification purposes, the items are not considered to be a set. Although sold together, the items are not designed to meet a particular need or carry out a specific activity. Consequently, each item is classifiable separately under its appropriate subheading.

Style HB18102C is a compartmentalized handbag. It is constructed with an outer surface of 100% polyester textile material. The handbag is designed and sized to carry money, keys and other small accessories on a daily basis. It has a main textile-lined compartment with a zippered wall pocket and two open wall pockets. This compartment secures with a top zipper closure. On opposite sides of the main compartment are additional compartments with open tops and no added features. The bag has two carrying handles and it measures approximately 14" (W) x 9" (H) x 4.25" (D). The sample is being returned to you.

Style HB18103C is a tote bag. It is constructed with an outer surface of 100% polyester textile material. The tote bag is designed to provide storage, protection, portability, and organization to personal effects during travel. The bag has a textile-lined interior compartment with a zippered wall pocket and two open wall pockets. It has a top zipper closure and two carrying handles. The bag has an exterior zippered pocket, and measures approximately 15.5" (W) x 12" (H) x 4.5" (W). We are retaining the sample.

In your ruling request, you state that style HB18103C is a handbag and is classified under 4202.22.8050, Harmonized Tariff Schedule of the United States (HTSUS) which provides for handbags, whether or not with shoulder strap, including those without handle, with outer surface of textile materials, other, other, of man-made fibers. However, the bag is more specifically provided for in heading 4202.92.3031 HTSUS, which provides for travel bags travel, sports and similar bags, with outer surface of textile materials, other, of man-made fibers, other.

The coin purses of styles HB18102C and HB18103C are constructed with an outer surface of 100% polyester textile material. The purses feature a single textile-lined compartment. They have a top zipper closure and measure approximately 6" (W) x 3.5" (H) x 1.5" (D).

The eyeglass cases of styles HB18102C and HB18103C are traditional clamshell-type spectacle cases with an exterior surface of 100% polyvinyl chloride (PVC) plastic sheeting. They have hinged lids and plastic inserts that are covered with a flocked material. They measure approximately 7" (L) x 0.5" (D).

The identification card cases of styles HB18102C and HB18103C are constructed with an outer surface of 100% polyvinyl chloride (PVC) plastic sheeting. They have zippered compartments with clear plastic windows for identification. They have open pockets on the front and back exterior and metal key rings. They measure approximately 4.5" (W) x 3" (H).

The applicable subheading for the handbag of style HB18102C will be 4202.22.8050, HTSUS, which provides, in part, for handbags, whether or not with shoulder strap, including those without handle, with outer surface of textile materials, other, other, of man-made fibers. The duty rate will be 17.6 percent ad valorem.

The applicable subheading for the tote bag of style HB18103C, will be 4202.92.3031, HTSUS, which provides for travel, sports, and similar bags, with outer surface of textile materials, other, of man-made fibers, other. The rate of duty will be 17.6% ad valorem.

The applicable subheading for the coin purses of styles HB18102C and HB18103C will be 4202.32.9550, HTSUS, which provides for articles of a kind normally carried in the pocket or in the handbag, with outer surface of textile materials, other, other, of man-made fibers. The rate of duty will be 17.6% ad valorem.

The applicable subheading for the spectacle cases of styles HB18102C and HB18103C will be 4202.32.1000, HTSUS, which provides for articles of a kind normally carried in the pocket or in the handbag, with outer surface of sheeting of plastic, of reinforced or laminated plastics. The rate of duty will be 12.1 cents/kg + 4.6% ad valorem.

The applicable subheading for the identification card cases of styles HB18102C and HB18103C will be 4202.32.1000, HTSUS, which provides for articles of a kind normally carried in the pocket or in the handbag, with outer surface of sheeting of plastic, of reinforced or laminated plastics. The rate of duty will be 12.1 cents/kg + 4.6% ad valorem.

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

HTSUS 4202.22.8050, 4202.32.9550 and 4202.92.3031 fall within textile category 670. 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. 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.

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 Vikki Lazaro at 646-733-3041.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity Specialist Division

[ATTACHMENT B]

HQ H263986
RR:CTF:CPM H263986 MG
CATEGORY: Classification
TARIFF NO.: 4202.22.8100; 4202.92.3131

MARGARET MAHAS
IMPORT COMPLIANCE MANAGER
KOHL'S DEPARTMENT STORES, INC.
N56 W17000 RIDGEWOOD DRIVE
MENOMONEE FALLS
WISCONSIN 53051

RE: Revocation of NY N024929, dated April 14, 2008; Tariff classification of handbags and tote bags with a coin purse, spectacle case, and an identification card case

DEAR MS. MAHAS:

U.S. Customs and Border Protection (CBP) issued Kohl's Department Stores, Inc., New York Ruling Letter (NY) N024929, dated April 14, 2008, pertaining to the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) of a handbag with a coin purse, spectacle case, and an identification card case and a tote bag with a coin purse, spectacle case, and an identification card case.

The samples at issue are referred as style HB18102C, which is a compartmentalized handbag and style HB18103C, which is a tote bag. Both styles are imported with a coin purse, spectacle case, and an identification card case. In N024929 we determined that, although sold together, the items at issue are not designed to meet a particular need or carry out a specific activity and do not constitute a set. CBP, therefore, determined that each item is classified separately under its appropriate subheading. We have since reviewed the tariff classification of the bags at issue and find it to be in error.

FACTS:

The items at issue in N024929 are described as follows:

Style HB18102C is a compartmentalized handbag. It is constructed with an outer surface of 100% polyester textile material. The handbag is designed and sized to carry money, keys and other small accessories on a daily basis. It has a main textile-lined compartment with a zippered wall pocket and two open wall pockets. This compartment secures with a top zipper closure. On opposite sides of the main compartment are additional compartments with open tops and no added features. The bag has two carrying handles and it measures approximately 14" (W) x 9" (H) x 4.25" (D).

Style HB18103C is a tote bag. It is constructed with an outer surface of 100% polyester textile material. The tote bag is designed to provide storage, protection, portability, and organization to personal effects during travel. The bag has a textile-lined interior compartment with a zippered wall pocket and two open wall pockets. It has a top zipper closure and two carrying handles. The bag has an exterior zippered pocket, and measures approximately 15.5" (W) x 12" (H) x 4.5" (W).

The coin purses of styles HB18102C and HB18103C are constructed with an outer surface of 100% polyester textile material. The purses feature a single textile-lined compartment. They have a top zipper closure and measure approximately 6" (W) x 3.5" (H) x 1.5" (D).

The eyeglass cases of styles HB18102C and HB18103C are traditional clamshell-type spectacle cases with an exterior surface of 100% polyvinyl chloride (PVC) plastic sheeting. They have hinged lids and plastic inserts that are covered with a flocked material. They measure approximately 7" (L) x 0.5" (D).

The identification card cases of styles HB18102C and HB18103C are constructed with an outer surface of 100% polyvinyl chloride (PVC) plastic sheeting. They have zippered compartments with clear plastic windows for identification. They have open pockets on the front and back exterior and metal key rings. They measure approximately 4.5" (W) x 3" (H).

ISSUES:

1) Whether the bags and accompanying coin purse, spectacle case, and identification card case are classified as a set pursuant to GRI 3(b).

2) If so, what is the tariff classification of the article that imparts the essential character to the set?

LAW AND ANALYSIS:

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

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

The applicable HTSUS provisions at issue are as follows:

4202	Trunks, suitcases, vanity cases, attaché cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper:
	Handbags, whether or not with shoulder strap, including those without handle:

4202.22				With outer surface of sheeting of plastic or of textile materials:
				With outer surface of textile materials:
				Other:
				Other:
4202.22.81				Of man-made fibers
*	*	*	*	
		Articles of a kind normally carried in the pocket or in the handbag:		
4202.32				With outer surface of sheeting of plastic or of textile materials:
				With outer surface of textile materials:
*	*	*	*	
		Other:		
4202.92				With outer surface of sheeting of plastic or of textile materials:
				Travel, sports and similar bags:
				With outer surface of textile materials:
4202.92.31				Of man-made fibers
*	*	*	*	

There is no dispute that the subject merchandise is classified in heading 4202, HTSUS, nor is there any dispute about the classification of each article at the subheading level. 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 GRIs 1 through 5, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires. Handbags are classified in subheading 4202.22, HTSUS, coin purses, spectacle cases and ID cases are classified in subheading 4202.32, HTSUS, and tote bags are classified in subheading 4202.92, HTSUS.

The subject merchandise contains several articles packaged together, which cannot be classified pursuant to a GRI 1 analysis because the articles are *prima facie*, classifiable in two different subheadings. If imported separately, the handbag would be classified in subheading 4202.22, HTSUS, which provides, in part, for "Handbags, whether or not with shoulder strap, including those without handle," the tote would be classified in subheading 4202.92, HTSUS, which provides, in part, for "Other" bags; and the handbag or tote's coin purse, spectacle case, and identification card case would be classified in subheading 4202.32, HTSUS, which provides, in part, for "Articles of a kind normally carried in the pocket or in the handbag."

When goods are, *prima facie*, classifiable in two or more headings, they must be classified in accordance with GRI 3[1], which provides, in relevant part, as follows:

[1] Pursuant to GRI 6, classification at the subheading level uses the same rules, mutatis mutandis, as classification at the heading level.

(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 each refer to part only 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 those goods, even if one of them gives a more complete or precise description of the goods.

(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.

* * * *

GRI 3 establishes a hierarchy of methods for classifying goods that fall under two or more headings. GRI 3(a) states that the heading providing the most specific description is to be preferred to a heading, which provides a more general description. However, GRI 3(a) indicates that when two or more headings each refer to part only of the materials or substances in a composite good 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 those goods, even if one of them gives a more complete or precise description than the other. In this case, the subheadings 4202.22, 4202.32 and 4202.92, HTSUS, each refer to only part of the items in the set. Thus, pursuant to GRI 3(a), we must consider the headings equally specific in relation to the goods. Accordingly, the goods are classifiable pursuant to GRI 3(b).

In classifying the articles pursuant to a GRI 3(b) analysis, the goods are classified as if they consisted of the component that gives them their essential character and a determination must be made as to whether or not these are "goods put up in sets for retail sale". In relevant part, the ENs to GRI 3(b) state:

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

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

* * * *

(X) 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. Therefore, for example, six fondue forks cannot be regarded as a set within the meaning of this Rule;

(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).

In accordance with GRI 3(b), we find that the subject component articles are properly classified as "sets" because they consist of goods put up in a set for retail sale. In this instance, the coin purse, spectacle case, and identification card case are designed to coordinate with the handbag or tote bag in that they are constructed of the same pattern, style, material, and color coordination to match the patterns of the handbag or tote. The coin purse, spectacle case, and identification card case are also a typical accessory that one might expect to be sold with a handbag or tote. The handbag and tote along with coin purse, spectacle case, and identification card case serve the singular purpose of helping the user to carry various items. Furthermore, the components in this set are, *prima facie*, classifiable in different subheadings and have been put up in retail packaging suitable for sale directly to users without repacking. *See* also HQ H031400, dated February 5, 2009, NY G82760, dated October 10, 2000, and NY G87109, dated February 14, 2008.

In *Estee Lauder, Inc. v. United States*, 815 F. Supp. 2d 1287, 1299–1300 (CIT 2012), the Court of International Trade ("CIT") clarified that a GRI 3(b) set should be classified according to the item that provided the essential character. Essential character is determined based on a review of "the nature of the [good], its bulk, quantity, weight or value, or by the role of a constituent [good] in relation to the use of the goods." Id. at 1300. This list is not exhaustive. The essential character of an article is "'that which is indispensable to the structure, core or condition of the article, i.e., what it is.' Further, 'the existence of other materials which impart something to the article ought not to preclude an attempt to isolate the most outstanding and distinctive characteristic of the article.'" *Structural Indus. v. United States*, 29 CIT 180, 185, 360 F. Supp. 2d 1330, 1336 (2005) (citations omitted). Court decisions that discuss "essential character" for purposes of GRI 3(b) have looked to the role of the constituent materials or components in relation to the use of the goods to determine essential character. *See, Better Home Plastics Corp. v. United States*, 916 F. Supp. 1265 (CIT 1996), *affirmed*, 119 F. 3d 969 (Fed. Cir. 1997); *Mita Copystar America, Inc. v. United States*, 966 F. Supp. 1245 (CIT 1997), *rehearing denied*, 994 F. Supp. 393 (CIT 1998), and *Vista International Packaging Co., v. United States*, 19 CIT 868, 890 F. Supp. 1095 (1995). *See also, Pillowtex Corp. v. United States*, 983 F. Supp. 188 (CIT 1997), *affirmed*, 171 F. 3d 1370 (Fed. Cir. 1999).

Consistent with our determination in HQ H031400, we find that the handbag of style HB18102C and the tote bag of style HB18103C serve to carry, keep and protect the coin purse, spectacle case, and identification card case and enhance the usefulness of these items when used in combination with the handbag or tote bag. Moreover, as the handbag or tote bag provide the bulk of the set and visual impact, it is the handbag or tote bag that imparts the essential character to the set.

HOLDING:

By application of GRI 1, Style HB18102C and Style HB18103C are classified in heading 4202. By application of GRI 6 and GRI 3(b), Style HB18102C is classified in subheading 4202.22.8100, HTSUSA (Annotated), which provides for: "Trunks, suitcases, vanity cases, attaché cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated

food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Handbags, whether or not with shoulder strap, including those without handle: With outer surface of sheeting of plastic or of textile materials: With outer surface of textile materials: Other: Other: Of man-made fibers." The column one, general rate of duty is 17.6% *ad valorem*.

By application of GRI 6 and 3(b), Style HB18103C is classified in subheading 4202.92.3131, HTSUSA, which provides for "Trunks, suitcases, vanity cases, attaché cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastic or of textile materials: Travel, sports and similar bags: With outer surface of textile materials: Of man-made fibers: Other." The column one, general rate of duty is 17.6% *ad valorem*.

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

PROPOSED MODIFICATION OF RULING LETTER RELATING TO THE PREFERENTIAL TARIFF TREATMENT ELIGIBILITY AND COUNTRY OF ORIGIN FOR ACUFEX DISPOSABLE KNIFE

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

ACTION: Notice of proposed modification of New York Ruling Letter N284181, dated April 6, 2017.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to modify one ruling letter concerning the preferential tariff treatment eligibility and country of origin for surgical instruments under the trade name Acufex Disposable Knife. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before December 1, 2017.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Entry Process and Duty Refunds Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Kristina Frolova, Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of Trade, at (202) 325–7262.

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) ("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 public 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, this notice advises interested parties that CBP is proposing to modify New York Ruling Letter ("NY") N284181, pertaining to the preferential tariff treatment eligibility, under the North American Free Trade Agreement and country of origin marking requirements for surgical instruments with the trade name "Acufex Disposable Knife" ("knives"). Although in this

notice, CBP is specifically referring to NY N284181, dated April 6, 2017 (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 the notice period.

In NY N284181, CBP determined the knives qualified for preferential NAFTA treatment pursuant to General Note ("GN") 12(b)(i), and that their origin was the United States for marking purposes pursuant to 19 C.F.R. § 102.19(a).

CBP has reviewed N284181 and has determined that portion of the ruling letter to be in error. It is now CBP's position that the knives qualify for preferential NAFTA treatment pursuant to GN 12(b)(iii), originate from the United States for marking purposes pursuant to 19 C.F.R. § 102.11(b)(1), and originate from Mexico for Customs duty purposes pursuant to 19 C.F.R. § 102.19(b).

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to modify NY N284181 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H288252, set forth as Attachment B to this notice.

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

Dated: October 17, 2017

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N284181

April 6, 2017
CLA-2–90:OT:RR:NC:2:235
CATEGORY: Classification; Country of Origin
TARIFF NO.: 9018.90.8000

MR. SHANNON BATKIN
SMITH & NEPHEW, INC.
130 FORBES BOULEVARD
MANSFIELD, MA 02048

RE: The tariff classification, country of origin, and status under the North American Free Trade Agreement (NAFTA) of a "Acufex Disposable Knife" from Mexico; Article 509

DEAR MR. BATKIN:

In your letter received March 7, 2017, you requested a country of origin ruling on an "Acufex Disposable Knife." The two provided samples have been reviewed and will be returned as requested.

In your submission, you describe the product at issue as a surgical instrument used mainly in meniscectomy surgeries and also in general surgeries requiring the cutting of suture and soft tissue. You state that the "Acufex Disposable Knife" is first formed in the United States by the stamping of stainless steel sheets by a U.S. supplier. You further state that the origin of the steel can vary and is not known at this time. The U.S. stamping process produces a flat blank, approximately 0.185 inches in width, 0.060 inches in thickness, and 9.0 inches in length. The blank has an embedded knurled form and ridges. The tip of the blank at this stage is blunt, which is reflected in "Sample 1." The knife blank will then be sent to Mexico for heat treatment, flattening, and the addition (via grinding of the blunt tip) of the hook and sharpened blade end of the tool. The finished tool, labeled "Sample 2," is then packaged and sent back to the U.S. for sterilization, packaging and sale. You have requested a country of origin ruling on the product identified by your label as "Sample 2."

The applicable tariff provision for the "Acufex Disposable Knife" will be 9018.90.8000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments; parts and accessories thereof: Other: Other: Other The general rate of duty will be free.

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 https://hts.usitc.gov/current.

General Note 12(b), HTSUS, sets forth the criteria for determining whether a good is originating under the NAFTA. General Note 12(b), HTSUS, (19 U.S.C. § 1202) states, in pertinent part, that

For the purposes of this note, goods imported into the customs territory of the United States are eligible for the tariff treatment and quantitative limitations set forth in the tariff schedule as "goods originating in the territory of a NAFTA party" only if--

(i) they are goods wholly obtained or produced entirely in the territory of Canada, Mexico and/or the United States; or

(ii) they have been transformed in the territory of Canada, Mexico and/or the United States so that--

(A) except as provided in subdivision (f) of this note, each of the non-originating materials used in the production of such goods undergoes a change in tariff classification described in subdivisions (r), (s) and (t) of this note or the rules set forth therein, or

(B) the goods otherwise satisfy the applicable requirements of subdivisions (r), (s) and (t) where no change in tariff classification is required, and the goods satisfy all other requirements of this note; or

(iii) they are goods produced entirely in the territory of Canada, Mexico and/or the United States exclusively from originating materials; or ...

Based on the facts provided, the "Acufex Disposable Knife" described above qualifies for NAFTA preferential treatment, because it will meet the requirements of HTSUS General Note 12(b)(i). For entry/duty purposes, the goods will therefore be entitled to preferential treatment under NAFTA upon compliance with all applicable laws, regulations, and agreements.

The marking statute, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, 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 its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Part 134, Customs Regulations (19 CFR Part 134) implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304.

The country of origin marking requirements for a "good of a NAFTA country" are also determined in accordance with Annex 311 of the North American Free Trade Agreement ("NAFTA"), as implemented by section 207 of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat 2057) (December 8, 1993) and the appropriate Customs Regulations. The Marking Rules used for determining whether a good is a good of a NAFTA country are contained in Part 102, Customs Regulations. The marking requirements of these goods are set forth in Part 134, Customs Regulations.

Section 134.1(b) of the regulations, defines "country of origin" as the country of manufacture, production, or growth of any article of foreign origin entering the U.S. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin" within this part; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin.

Section 134.1(j) of the regulations, provides that the "NAFTA Marking Rules" are the rules promulgated for purposes of determining whether a good is a good of a NAFTA country. Section 134.1(g) of the regulations, defines a "good of a NAFTA country" as an article for which the country of origin is Canada, Mexico or the United States as determined under the NAFTA Marking Rules. Section 134.45(a)(2) of the regulations, provides that a "good of a NAFTA country" may be marked with the name of the country of origin in English, French or Spanish.

Part 102 of the regulations, sets forth the "NAFTA Marking Rules" for purposes of determining whether a good is a good of a NAFTA country for

marking purposes. Section 102.11 of the regulations, sets forth the required hierarchy for determining country of origin for marking purposes.

Section 102.19(a) of the regulations contains a "NAFTA preference override":

Except in the case of goods covered by paragraph (b) of this section, if a good which is originating within the meaning of § 181.1(q) of this chapter is not determined under § 102.11(a) or (b) or § 102.21 to be a good of a single NAFTA country, the country of origin of such good is the last NAFTA country in which that good underwent production other than minor processing, provided that a Certificate of Origin . . . has been completed and signed for the good.

Applying the NAFTA Marking Rules set forth in Part 102 of the regulations to the facts of this case, we find that the imported "Acufex Disposable Knife" is a good of the United States for country of origin marking and entry purposes.

This ruling is being issued under the provisions of Part 181 of the Customs Regulations (19 C.F.R. 181).

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 Nuccio Fera at nuccio.fera@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK
Director
National Commodity Specialist Division

[ATTACHMENT B]

HQ H288252
OT:RR:CTF:VS H288252 KF
CATEGORY: Classification

SHANNON BATKIN
SMITH & NEPHEW, INC.
130 FORBES BOULEVARD
MANSFIELD, MA 02048

RE: Modification of New York Ruling Letter (NY) N284181; NAFTA Preference; Country of Origin Marking of Acufex Disposable Knives

DEAR MR. BATKIN:

This is in reference to New York Ruling Letter ("NY") N284181, issued to you on April 6, 2017. NY N284181 held that surgical instruments with the trade name "Acufex Disposable Knife" ("knives") qualified for preferential treatment under the North American Free Trade Agreement ("NAFTA") pursuant to General Note ("GN") 12(b)(i), and their country of origin was the United States pursuant to 19 C.F.R. § 102.19(a). It has come to our attention that NY N284181's NAFTA and country of origin analysis is incorrect. NY N284181's analysis concerning the tariff classification of the knives is correct and is not affected by this ruling.

FACTS:

In your submission, you describe the knives as surgical instruments used mainly in meniscectomy surgeries and also in general surgeries requiring the cutting of suture and soft tissue. You state that the knives are first formed in the United States by stamping stainless steel sheets. You further state the origin of the steel can vary and is unknown. The stamping process which occurs in the United States produces flat blanks, approximately 0.185 inches in width, 0.060 inches in thickness, and 9.0 inches in length. The blanks have an embedded knurled form and ridges. The tip of the blanks at this stage is blunt. Afterwards, the blanks are sent to Mexico for heat treatment, flattening, and the addition (via grinding of the blunt tip) of the hook and sharpened blade end of the tools, to produce finished knives. The finished knives are then packaged and sent to the United States for sterilization, further packaging, and sale.

NY N284181 determined that the tariff classification applicable to the finished knives is subheading 9018.90.8000, Harmonized Tariff Schedule of the United States ("HTSUS").

ISSUE:

1. Whether the knives qualify for preferential tariff treatment under NAFTA.
2. What are the country of origin marking requirements applicable to the knives?

LAW AND ANALYSIS:

1. Whether the knives qualify for preferential tariff treatment under NAFTA.

General Note ("GN") 12(a)(ii) of the HTSUS provides that:

> Goods that originate in the territory of a NAFTA party under the terms of subdivision (b) of this note and that qualify to be marked as goods of Mexico under the terms of the marking rules set forth in regulations issued by the Secretary of the Treasury (without regard to whether the goods are marked), and goods enumerated in subdivision (u) of this note, when such goods are imported into the customs territory of the United States and are entered under a subheading for which a rate of duty appears in the "Special" subcolumn followed by the symbol "MX" in parentheses, are eligible for such duty rate, in accordance with section 201 of the North American Free Trade Agreement Implementation Act.

GN 12(b) provides in relevant part:

> For the purposes of this note, goods imported into the customs territory of the United States are eligible for the tariff treatment and quantitative limitations set forth in the tariff schedule as "goods originating in the territory of a NAFTA party" only if –
>
> (i) they are goods wholly obtained or produced entirely in the territory of Canada, Mexico and/or the United States; or
>
> (ii) they have been transformed in the territory of Canada, Mexico and/or the United States so that—
>
> (A) except as provided in subdivision (f) of this note, each of the non-originating materials used in the production of such goods undergoes a change in tariff classification described in subdivision (r), (s) and (t) of this note or the rules set forth therein, or
>
> (B) the goods otherwise satisfy the applicable requirements of subdivision (r), (s) and (t) where no change in tariff classification is required, and the goods satisfy all other requirements of this note.
>
> (iii) they are goods produced entirely in the territory of Canada, Mexico and/or the United States exclusively from originating materials.

Here, the knives are produced as follows: First, steel of unknown origin is stamped to produce knife blanks within the United States. Second, the knife blanks are produced into finished knives in Mexico via heating, flattening, and grinding to create the hook, and sharpening the blade end. Third, the finished knives are sent to the United States for sterilization, packaging, and sale.

Given that the blanks are produced in the United States from steel that is sourced from unknown countries, which may not be NAFTA parties, the finished knives are ineligible for preferential treatment pursuant to GN 12(b)(i) because it cannot be established that they are wholly obtained or produced entirely within NAFTA territory. However, the steel of unknown origin is stamped in the United States to form blanks which are classifiable under subheading 9018.90.80, HTSUS. The applicable tariff shift rule in Chapter 90(46), GN 12(t), permits a "change to subheading 9018.90 from any other heading." While insufficient information was provided to ascertain the precise tariff classification of the steel, because a change from any other heading is permitted we can determine that the applicable tariff shift rule is satisfied. Accordingly, the blanks originate in the United States pursuant to GN 12(b)(ii)(A). The blanks are subsequently produced into finished knives in

Mexico. No other materials are used or added to the knives during production in Mexico. The finished knives are therefore goods produced entirely in the territory of Mexico from blanks originating in the United States, and qualify for preferential tariff treatment under NAFTA pursuant to GN 12(b)(iii).

2. What are the country of origin marking requirements applicable to the knives?

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

Section 134.1(b) of the Customs Regulations defines "country of origin" as:

> [T]he country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin" within this part; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin.

Section 134.1(j) provides that the NAFTA Marking Rules are promulgated for purposes of determining whether a good is a good of a NAFTA country. Section 134.1(g) defines a "good of a NAFTA country" as "an article for which the country of origin is Canada, Mexico or the United States as determined under the NAFTA Marking Rules." The NAFTA Marking Rules are set forth in Part 102, Customs Regulations (19 C.F.R. § 102). Section 102.11(a) contains the "General rules" for determining country of origin:

> (a) The country of origin of a good is the country in which:
>
> (1) The good is wholly obtained or produced;
>
> (2) The good is produced exclusively from domestic materials; or
>
> (3) Each foreign material incorporated in that good undergoes an applicable change in tariff classification set out in § 102.20 and satisfies any other applicable requirements of that section, and all other applicable requirements of these rules are satisfied.

The knives' country of origin cannot be determined pursuant to 19 C.F.R. § 102.11(a)(1) because they are produced from blanks that are first produced in the United States. Nor can the country of origin be determined pursuant to 19 C.F.R. § 102.11(a)(2) because the knives are not Mexican materials. It is therefore necessary to determine the knives' country of origin pursuant to 19 C.F.R. § 102.11(a)(3). The applicable tariff shift rule for the knives in 19 C.F.R. § 102.20 permits a "change to subheading 9018.90 from any other subheading, except from subheading 9001.90 or synthetic rubber classified in heading 4002 when resulting from a simple assembly; or [a] change to defibrillators from printed circuit assemblies, except when resulting from a simple assembly." Since the blanks are classified under the same subheading as the knives, the rule is not satisfied. Consequently, 19 C.F.R. § 102.11(b) of the hierarchical rules must be applied to determine the knives' country of origin.

Section 102.11(b) provides that:

> Except for a good that is specifically described in the Harmonized System as a set, or is classified as a set pursuant to General Rule of Interpretation 3, the country of origin cannot be determined under paragraph (a) of this section:
>
> (1) The country of origin of the good is the country or countries of origin of the single material that imparts the essential character to the good.

For purposes of identifying the material that imparts the essential character to a good under section 102.11(b), section 102.18(b) limits consideration to domestic and foreign materials "that are classified in a tariff provision from which a change in tariff classification is not allowed under the § 102.20 specific rule or other requirements applicable to the good." The only material used in producing the knives for which a change in tariff classification is not allowed are the blanks likewise classified under 9018.90, HTSUS. Accordingly, the blanks' country of origin is also the knives' country of origin. As the blanks produced in the United States from steel of unknown origin satisfy the applicable tariff shift rule in the United States, the knives' country of origin for marking purposes is the United States.

However, pursuant to 19 C.F.R. § 102.19(b):

> [I]f the country of origin of a good which is originating within the meaning of § 181.1(q) of this chapter is determined to be the United States and that good has been exported from, and returned to, the United States after having been advanced in value or improved in condition in another NAFTA country, the country of origin of such good for Customs duty purposes is the last NAFTA country in which that good was advanced in value or improved in condition before its return to the United States.

Here, blanks originating in the United States are exported to Mexico to be rendered suitable for sale through production into finished knives. The knives are therefore advanced in value or improved in condition in Mexico. Mexico is thus the knives' country of origin for Customs duty purposes. Note that 19 CFR § 102.19(b) has no effect on the country of origin for marking purposes, and no marking on the knives is necessary. *See* HQ H046759 (June 29, 2009). Articles originating in the United States are generally not subject to the marking requirements of 19 U.S.C. § 1304. The Federal Trade Commission ("FTC") has jurisdiction over marking of such articles. Any inquiries concerning marking the knives with a phrase such as "Made in the USA" must be directed to the FTC. The FTC may be contacted at the following address: Federal Trade Commission, Division of Enforcement, 6th and Pennsylvania Ave. NW, Washington, DC 20508.

HOLDING:

We find that the knives are entitled to preferential tariff treatment under NAFTA pursuant to GN 12(b)(iii), the United States is the knives' country of origin for marking purposes pursuant to 19 C.F.R. § 102.11(b)(1), and that Mexico is the knives' country of origin for Customs duty purposes pursuant to 19 C.F.R. § 102.19(b).

EFFECT ON OTHER RULINGS:

NY N284181, dated April 6, 2017, is hereby MODIFIED. In accordance with 19 U.S.C. §1625(c)(2), this ruling will become effective sixty (60) days after the date of its publication in the Customs Bulletin.

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

19 CFR PART 177

REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF GEL PACK VEST SET

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

ACTION: Notice of modification of one ruling letter, and of revocation of treatment relating to the tariff classification of gel pack vest set.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking one ruling letter concerning tariff classification of a gel pack vest set under the Harmonized Tariff Schedule of the United States ("HTSUS"). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 51, No. 29, on July 19, 2017. One comment was received in response to the proposed notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Reema Radwan, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–7703.

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) ("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 public 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, a notice was published in the *Customs Bulletin*, Vol. 51, No. 29, on July 19, 2017, proposing to revoke one ruling letter pertaining to the tariff classification of a gel pack vest set. As stated in the notice, this action will cover New York Ruling Letter ("NY") N259445, dated December 17, 2014, as well as 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 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. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical 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 this notice.

In NY N259445, CBP classified the components of a gel pack vest set separately in different headings for each component. The gel pack component was classified separately in heading 3824, HTSUS, specifically in subheading 3824.90.92, HTSUS, which provides for "chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Other: Other: Other: Other." The insulated cooler bag was classified separately in heading 4202, HTSUS, specifically in subheading 4202.92.08, HTSUS, which provides for "insulated food or beverage bags . . . of textile materials . . . : Other: With outer surface of sheeting of plastics or of textile materials: Insulated food or beverage bags: With outer surface of textile materials: Other: Of man-made fibers." The vest component was classified in heading 6110, HTSUS, specifically in subheading 6110.30.30, HTSUS, which provides for "Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of man-made fibers: Other: Other: Other: Other: Other: Women's or girls': Other." CBP has reviewed NY N259445 and has determined the ruling letter to be in error. It is now CBP's position that the gel pack vest is properly classified, by operation of GRIs 1 and 3(b), in heading 6110, HTSUS, specifically in subheading 6110.30.30, HTSUS, which provides for "Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of man-made fibers: Other: Other: Other: Other: Other: Women's or girls': Other."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N259445 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H283055, 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: October 17, 2017

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H283055
October 17, 2017
OT:RR:CTF:CPM H283055 RGR
CATEGORY: Classification
TARIFF NO.: 6110.30.3059

MS. MARY KASTNER
PRESIDENT
PMK INTERNATIONAL LLC
1107 SW GRADY WAY
BLDG B, STE 120
RENTON, WA 98057

RE: Revocation of NY N259445; Tariff classification of gel pack vest and cooler bag from Vietnam

DEAR MS. KASTNER:

This is to inform you that U.S. Customs & Border Protection ("CBP") has reconsidered New York ("NY") Ruling Letter N259445, dated December 17, 2014, regarding the classification of a gel pack vest set, consisting of a wearable hot and cold therapy delivery system in the form of a gel pack, a reusable insulated cooler bag, and a cardigan vest (hereinafter, "wearable thermal therapy system"), under the Harmonized Tariff Schedule of the United States ("HTSUS"). The gel pack, reusable insulated cooler bag, and cardigan vest were classified separately because we had determined that the merchandise was not a set for purposes of General Rule of Interpretation ("GRI") 3(b). Accordingly, the gel pack was classified separately under subheading 3824.90.9290, HTSUS, which provides for "Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Other: Other: Other: Other." The reusable insulated cooler bag was classified separately under subheading 4202.92.0807, HTSUS, which provides for ". . . insulated food or beverage bags . . . : Other: With outer surface of sheeting of plastic or of textile materials: Insulated food or beverage bags: Other: Of man-made fibers." The cardigan vest was classified separately under subheading 6110.30.3059, HTSUS, which provides for "sweaters, pullovers, sweatshirts waistcoats (vests) and similar articles, knitted or crocheted: Of man-made fibers: Other: Other: Other: Other: Women's or girls': Other." We have determined that NY N259445 is in error. Therefore, this ruling revokes NY N259445.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Volume 51, No. 29, on July 19, 2017, proposing to revoke NY N259445, and any treatment accorded to substantially identical transactions. One comment was received in response to this notice, and the arguments made therein were considered in this office's analysis below.

FACTS:

In NY N259445, we described the merchandise as three separate articles packaged together, which includes a gel pack, a reusable insulated cooler bag, and a cardigan vest.

The gel pack is composed of water (65%), glycerol (20%), and polyacrylamide (15%) contained in a textile cover made of polyester, nylon, and spandex. The gel pack is nearly the length of the vest and shaped like a capital letter

"I" to insert into the lower and upper back and spine portions of the vest. The bottom of the "I" shape covers the lumbar portion of the back. The vertical portion of the gel pack is approximately four inches wide. The top horizontal portion of the gel pack covers only the bottom of the cervical spine and a portion of the trapezoid muscles. The gel pack can be placed in a microwave, boiling water, or freezer and then inserted into the mesh lining of the vest where it is attached with hook and loop fasteners. According to the importer, the cost of the gel pack is over $5 and it weighs 16 ounces.

The reusable cooler bag is constructed of nonwoven polypropylene textile fabric. It provides storage, protection, portability, and organization for its contents. It has an interior storage compartment lined with aluminum foil that is laminated over a layer of foam. The bag has a zipper closure and a top carrying handle. It measures approximately 8" in width, 5" in height, and 6" in depth. The term "Dr.Soothe" and a logo is printed on the front of the bag.

The unisex cut-and-sewn sleeveless cardigan vest is made of approximately 80% polyester and 20% spandex. It is a zippered garment with a neck tightening cord and elasticized back. It features a "perfect fit" to maximize compression of the gel pack against the user's back. The netted compartment for the gel pack is not visible while wearing the silver/charcoal colored two-tone vest, and appears as a lining to the vest. The vest has the term "backrelieve" printed on the back of the neck collar. The website contains a size guide for the vest. According to the importer, the cost of the vest is over $10 and it weighs 10 ounces.

ISSUE:

Whether the merchandise is classified as a set for tariff purposes, or separately under each component's individual subheadings, in heading 3824, HTSUS, for the gel pack as "chemical products and preparations of the chemical or allied industries," in heading 4202, HTSUS, for the insulated cooler bag as "insulated food and beverage bags," or in heading 6110, HTSUS, for the cardigan vest as women's or girls' "sweaters, pullovers, sweatshirts waistcoats (vests) and similar articles, knitted or crocheted: Of man-made fibers."

LAW AND ANALYSIS:

The classification of merchandise under the HTSUS is governed by the General Rules of Interpretation ("GRI"). GRI 1 provides, in part, that "for legal purposes, classification shall be determined according to terms of the headings and any relative section or chapter notes..." In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied in order.

GRI 3(b)-(c) provide as follows:

> 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:
>
> ...
>
> (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 classified under the heading which occurs last in numerical order among those which equally merit consideration.

The HTSUS headings under consideration are as follows:

3824	Prepared binders for foundry molds or cores: chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included:
3824.90	Other
3824.90.92	Other
3824.90.9290	Other
***	
4202	Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper:
4202.92	With outer surface of sheeting of plastic or of textile materials:
4202.92.08	Insulated food or beverage bags:
	With outer surface of textile materials:
	Other
4202.92.0807	Of man-made fibers (670)
***	
6110	Sweaters, pullovers, sweatshirts, waistcoasts (vests) and similar articles, knitted or crocheted:
6110.30	Of man-made fibers:
	Other:
	Other:
6110.30.30	Other:
6110.30.3059	Women's or girls':
	Other (639)
***	

The merchandise classified in NY N259445 consists of individual articles that are, *prima facie*, classifiable in different headings and packaged together for retail sale. There is no dispute that heading 6110, HTSUS, describes the cardigan vest in NY N258445. Similarly, there is no dispute that heading 3824, HTSUS, describes the gel pack, and that heading 4202, HTSUS, describes the insulated cooler bag in NY N259445. Consequently, because the individual articles are, *prima facie*, classifiable in separate headings, consideration is given to classification pursuant to GRI 3.

In understanding the language of the HTSUS, the Explanatory Notes ("ENs") of the Harmonized Commodity Description and Coding System 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 Harmonized System at the international level.

See T.D. 89–90, 54 Fed. Reg. 35127 (Aug. 23, 1989).

EN to GRI 3(b) states, in pertinent part:

> (VII) In all these cases the goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criteria is applicable.
>
> (VIII) The 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 a constituent material in relation to the use of the goods.
>
> ***
>
> (X) 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. . .
>
> ***

The cardigan vest, gel pack, and insulated cooler bag in NY N259445 are put up together for sale and are not repackaged after importation. Accordingly, they are suitable for sale directly to users without repacking. Together, the components are put up together to meet a particular need or carry out a specific activity. Specifically, all three items are put up together for the common purpose of providing thermal therapy through the interaction of the cardigan vest, gel pack, and insulated cooler bag. The cardigan vest is required in order to reap the benefits of the wearable thermal therapy system because the gel pack cannot be used without it unless the user were to lie on the gel pack or tape it to his or her back. Thus, the wearable thermal therapy system would not perform as efficiently if the cardigan vest and gel pack were not used together.

Whether a container such as the insulated cooler bag contributes to a set meeting a particular need or carrying out a specific activity, or whether it thwarts the set**,** causing the articles to be classified separately and individually, was addressed by the Court of International Trade ("CIT") in *Estee Lauder, Inc. v. United States*, 815 F. Supp. 2d 1287, 1293 (Ct. Intl' Trade 2012). There, the CIT considered a cosmetics kit which contained 12–15 different cosmetics, cosmetic brushes and other related items, which were assembled into a zippered carrying case. In addressing the case itself, the court said, "the fact that the set is imported in a container that could be separately classifiable does not prevent the classification of the set as such." *Id*. at 1297 . This analysis is applicable in the instant matter as regards the insulated cooler bag.

Here, the insulated cooler bag is akin to the case discussed in *Estee Lauder*. This is because a relationship exists between the gel pack, cardigan vest and insulated cooler bag in which the gel pack and vest are stored. The dimensions of the insulated cooler bag are such that it is designed to hold the gel pack and cardigan vest together when they are put away for storage after cooling or heating the gel pack, or when the articles are not in use. The

insulated cooler bag contributes to the wearable thermal therapy system because it is suitable for storage, protection, and transportation of the set components under normal use. Therefore, together, the insulated cooler bag, when used with the gel pack and cardigan vest, meets the particular need or specific activity of providing thermal therapy to the neck, lower back and shoulders while up and about. *See Estee Lauder, Inc. v. United States, supra*, at 1297 ("Because the...cosmetic case facilitates the transportation, storage and use of the cosmetics and other components contained within and for which it was designed, marketed and sold, it helps carry out the specific activity of applying make-up together with its contents").

Thus, where the subject merchandise consists of at least two different articles which are, *prima facie*, classifiable in different headings; articles put up together to meet the particular need of providing users with wearable thermal therapy; and articles put up in a manner suitable for sale directly to users without repacking, we find that the subject merchandise meets the three requirements found in EN (X) to GRI 3(b) and is a "set" for tariff purposes. CBP must next determine which component imparts the essential character of the set for classification purposes.

There have been several court cases 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 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). In that case, the court examined lighting fixtures and classified them according to glass components that served both decorative and functional purposes. *Home Depot USA, Inc.*, 427 F. Supp. 2d at 1295.

We have carefully reviewed each component of the wearable thermal therapy system in order to determine which component imparts the essential character for classification purposes. The EN (VIII) to GRI 3(b) is instructive, stating that the factors which determine essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. Here, as the insulated cooler bag does not provide the primary function of the article as a whole in delivering wearable thermal therapy and merely stores the other components when not in use, this component does not impart the essential character of the set as a whole.

Next, we must determine whether the essential character is imparted by the cardigan vest or the gel pack. In Headquarters Ruling Letter ("HQ") 966262, dated May 29, 2003, we classified a heated head therapy wrap consisting of a terry head cover or hood of knit 100% polyester terry fabric and plastic covered gel packs that can be heated in a microwave and placed inside specially shaped pockets in the terry cloth as headgear of heading 6505, HTSUS. We did so because the headgear portion of the article kept the gel packs in place. The unique shape of the fabric component was paramount

in the functioning of the articles. *See also* HQ 964851, dated April 18, 2001 (classifying a plastic eye mask filled with chemical mixtures that can be heated or cooled prior to use, with the mask's flexible plastic shell conforming to the wearer's face to keep the article over his or her eyes, as an article of plastic of heading 3924, HTSUS, where plastic shell component imparted essential character); HQ 964877, dated May 17, 2001 (classifying an eye patch consisting of a vinyl plastic eye patch filled with solution consisting of 58% propylene glycol, 41.98% distilled water and 0.02% dyeing material that can be heated or chilled as an article of plastic of heading 3924, HTSUS, where plastic shell component imparted essential character); HQ 964878, dated May 17, 2001 (classifying four different styles of vinyl plastic eye masks and one vinyl plastic head compress designed to be heated or cooled and worn over the eyes or the forehead and temple as plastic articles of heading 3924, HTSUS, where plastic shell component imparted essential character); HQ 963725, dated May 17, 2001 (classifying a vinyl plastic eye mask filled with 59.8% propylene glycol, 40% distilled water and 0.02% color pigment that is intended to be chilled and placed over the user's eyes as articles of plastic of heading 3924, HTSUS, where plastic shell imparted essential character); and HQ 963852, dated May 17, 2001 (classifying one facial mask consisting of a vinyl plastic facial mask filled with water, 0.3% Poly Aery/Sodion, 0.5% salt, 0.2% 2-Phenoxyaethanol and 0.05% food color, and one eye mask consisting of a vinyl plastic mask filled with a 60% glycerin and 40% distilled water mixture as articles of plastic of heading 3924, HTSUS, where plastic shell component imparted essential character).

As in the eye mask cases and the heated head therapy wrap in HQ 966262, the essential character of the wearable thermal therapy system is imparted by the portion of the article that maintains the recognizable shape, making it usable for its intended purpose on one distinct portion of the body, *i.e.*, providing thermal therapy relief to the user's back. The subject merchandise has a distinct shape imparted by the cardigan vest and does not cease to be classifiable as a garment just because it is worn with another article, such as a gel pack. Further, in order for the user to receive back pain thermal therapy relief while using the product, the gel pack must be placed inside the back pouch of the vest. Without the cardigan vest, the gel pack could not be secured in the appropriate position for providing thermal therapy to the back and shoulders while the user is up and about. Moreover, the cardigan vest also can be worn without the gel pack and provides greater surface area and visual appeal to the merchandise. It is also the component responsible for a considerably greater amount of the value of the merchandise. Furthermore, the vest imparts the BackRelieve system with the other characteristics necessary for wearable thermal therapy. For instance, due to the "adjustable neckline control" and the "built in lumbar tension system," the BackRelieve allows for "full compression control, ensuring consistent delivery of thermal therapy to all of your problem areas." *Drsoothe.com* (last visited September 6, 2017). Moreover, the website states that the BackRelieve is "fashioned from the latest in athletic fabrics. Enhanced by breathability and wicking, the user can wear the BackRelieve without the worry of sweating or overheating." *Id.* Lastly, the website states that the "antimicrobial technology" of the BackRelieve keeps it "free of odor-causing bacteria, fungus, mold and mildew—keeping users fresh between launderings." *Id.* The compression needed for consistent delivery of the thermal therapy, the breathability, wicking, and antimicrobial properties of the fabric of the vest, and its ability to be laun-

dered are all features of the vest portion of the merchandise. Without the features of the vest, the gel pack's thermal properties would not be evenly distributed, the entire garment would not be sized properly, the user would sweat or feel wet from the gel pack, and the entire product would mildew. The vest is therefore indispensable to this wearable thermal therapy system. *See Home Depot, supra*.

Moreover, as the gel pack is hidden and of smaller dimensions than the vest, the vest contributes the most surface area, bulk and twice the value to the good as well as the only component to create visual appeal. Accordingly, pursuant to GRI 3(b), we find that the wearable thermal therapy system is classified according to the essential character of the set, imparted by the cardigan vest, in subheading 6110.30.3059, HTSUS, where the vest component is both functional and appealing as wearable thermal therapy. *See Home Depot USA, Inc.*, 427 F. Supp. 2d at 1296 (glass component of a light fixture imparted the essential character where "both the glass and metal contribute to decorative appearance and are part of the structure" but "the glass further functions to direct and soften light through diffusion, to protect the lamp, and to shield the lamp from view") (internal quotation marks omitted).

In the alternative, pursuant to GRI 3(c), where no single component of a set imparts the essential character, the merchandise is to be classified in the heading which occurs last in numerical order among those which equally merit consideration in determining their classification. In regards to the wearable thermal therapy system, the tariff heading for the cardigan vest, subheading 6110.30.3059, HTSUS, appears last in numerical order among the competing headings which equally merit consideration. Thus, under a GRI 3(c) analysis, we also find that the proper classification for the wearable thermal therapy system is subheading 6110.30.3059, HTSUS, which covers "Sweaters, pullovers, sweatshirts waistcoats (vests) and similar articles, knitted or crocheted (con): Of man-made fibers: Other: Other: Other: Women's or girls': Other."

The commenter who submitted comments in response to the notice of proposed revocation of NY N259445 argues that the essential character is imparted by the gel pack rather than by the cardigan vest. Specifically, the commenter argues that the gel pack plays the primary therapeutic role of the wearable thermal therapy system, as purchasers will buy the wearable thermal therapy system expressly because of its relief properties. However, the commenter downplays the centrality of the vest's purpose to the wearable thermal therapy system and misconstrues CBP's analysis in asserting that it hinges on the conclusion that the article that retains its shape automatically imparts the essential character. CBP's position is not that the vest imparts the essential character because it retains its shape but that without the shape, structure, compression, breathability, and other characteristics provided by the vest, the item would not be suited for its intended purpose of providing thermal therapy relief to the user's back while up and about. As explained above, this is in line with CBP's past rulings.

HOLDING:

Pursuant to GRIs 1 and 3(b), the gel pack vest set consisting of a wearable thermal therapy system is classified under heading 6110, HTSUS, and specifically provided for under subheading 6110.30.3059, HTSUS, as "Sweaters, pullovers, sweatshirts waistcoats (vests) and similar articles, knitted or crocheted (con): Of man-made fibers: Oher: Other: Other: Other: Other: Women's

or girls': Other." The general, column one, rate of duty is 32% *ad valorem*.

EFFECT ON OTHER RULINGS:

NY N259445, dated December 17, 2014, 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,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

PROPOSED REVOCATION OF ONE RULING LETTER, MODIFICATION OF ONE RULING LETTER, AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF ALISKIREN HEMIFUMARATE

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

ACTION: Notice of proposed revocation and modification of two ruling letters, and revocation of treatment relating to the tariff classification of Aliskiren Hemifumarate.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke New York Ruling Letter (NY) N180809, dated September 16, 2011, and to modify NY N043304, dated November 7, 2008, concerning tariff classification of Aliskiren Hemifumarate under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before December 1, 2017.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted

comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–0024.

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) ("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 public 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, this notice advises interested parties that CBP is proposing to revoke one ruling letter and to modify one ruling letter concerning the tariff classification of Aliskiren Hemifumarate. Although in this notice, CBP is specifically referring to New York Ruling Letter (NY) N180809, dated September 16, 2011 (Attachment A), and NY N043304, dated November 7, 2008 (Attachment B), this notice covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the two 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 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 proposing 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 NY N180809 and NY N043304, CBP classified Aliskiren Hemifumarate in heading 2924, HTSUS, specifically in subheading 2924.29.62, HTSUS, which provides for Carboxyamide-function compounds; amide-function compounds of carbonic acid: Cyclic amides (including cyclic carbamates) and their derivatives; salts thereof: Other: Aromatic: Other: Drugs: Other." Neither ruling addressed the eligibility of Aliskiren Hemifumarate for duty free treatment under General Note 13, HTSUS. CBP has reviewed NY N180809 and NY N043304 and has determined the ruling letters to be in error. It is now CBP's position that while the classification of Aliskiren Hemifumarate in subheading 2924.29.62, HTSUS, is correct, Aliskiren Hemifumarate is eligible for duty free treatment under General Note 13, HTSUS.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N180809, to modify NY N043304, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H202562, set forth as Attachment C to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing 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: September 26, 2017

ALLYSON MATTANAH
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N180809
September 16, 2011
CLA-2–29:OT:RR:NC:N2:238
CATEGORY: Classification
TARIFF NO.: 2924.29.6250

MS. INGE FORSTENZER
REN-PHARM INTERNATIONAL, LTD
350 JERICHO TURNPIKE SUITE 204
JERICHO, NY 11753

RE: The tariff classification of Aliskiren Hemifumarate (CAS-173334–58–2) in bulk form from Italy.

DEAR MS. FORSTENZER:

In your letter dated August 17, 2011, you requested a tariff classification ruling.

The subject merchandise Aliskiren Hemifumarate is a synthetically derived white crystalline powder in bulk form. It is indicated for the treatment of hypertension.

The applicable subheading for the Aliskiren Hemifumarate in bulk form will be 2924.29.6250, Harmonized Tariff Schedule of the United States (HTSUS), which provides for: Carboxyamide-function compounds; amide-function compounds of carbonic acid: Cyclic amides (including cyclic carbamates) and their derivatives; salts thereof: Other: Aromatic: Other: Drugs: Other: Other. The rate of duty will be 6.5%.

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/.

This merchandise may be subject to the Federal Food, Drug, and Cosmetic Act and/or The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (The Bioterrorism Act), which are administered by the U.S. Food and Drug Administration (FDA). Information on the Federal Food, Drug, and Cosmetic Act, as well as The Bioterrorism Act, can be obtained by calling the FDA at 1–888–463–6332, or by visiting their website at www.fda.gov.

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 the National Import Specialist at (646) 733–3033.

Sincerely,

ROBERT B. SWIERUPSKI
Director
National Commodity Specialist Division

[ATTACHMENT B]

N043304
November 7, 2008
CLA-2–29:OT:RR:NC:N2:238
CATEGORY: Classification
TARIFF NO.: 2924.29.6250; 2933.39.4100

MS. INGE FORSTENZER
REN-PHARM INTERNATIONAL LTD.
350 JERICHO TURNPIKE, SUITE 204
JERICHO, NY 11753

RE: The tariff classification of Aliskiren Hemifumarate (CAS-173334–58–2) and Esomeprazole Magnesium (CAS-161973–10–0) in bulk form, from India

DEAR MS. FORESTENZER:

In your letter dated October 28, 2008, you requested a tariff classification ruling.

The first product, Aliskiren Hemifumarate, is the first in a new class of drugs called non peptide renin inhibitors, and is used for the treatment of hypertension.

The second product, Esomeprazole Magnesium, inhibits gastric acid secretion and is indicated for the treatment of Gastroesophageal Reflux Disease (GERD).

The applicable subheading for the Aliskiren Hemifumarate in bulk form will be 2924.29.6250, Harmonized Tariff Schedule of the United States (HTSUS), which provides "Carboxyamide-function compounds; amide-function compounds of carbonic acid: Cyclic amides (including cyclic carbamates) and their derivatives; salts thereof: Other: Aromatic: Other: Drugs: Other: Other." The rate of duty will be 6.5% Ad Valorem.

The applicable subheading for Esomeprazole Magnesium in bulk form will be 2933.39.4100, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Heterocyclic compounds with nitrogen hetero-atom(s) only: Compounds containing an unfused pyridine ring (whether or not hydrogenated) in the structure: Other: Drugs: Other." Pursuant to GN 13, HTSUS, the rate of duty will be free.

Articles classifiable under subheading 2924.29.6250, HTSUS, which are products of India may be entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations. The GSP is subject to modification and periodic suspension, which may affect the status of your transaction at the time of entry for consumption or withdrawal from warehouse. To obtain current information on GSP, check our Web site at www.cbp.gov and search for the term "GSP".

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/.

This merchandise may be subject to the Federal Food, Drug, and Cosmetic Act and/or The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (The Bioterrorism Act), which are administered by the U.S. Food and Drug Administration (FDA). Information on the Federal Food, Drug, and Cosmetic Act, as well as The Bioterrorism Act, can be obtained by calling the FDA at 1–888–463–6332, or by visiting their website at www.fda.gov.

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 Harvey Kuperstein at (646) 733–3033.

Sincerely,

ROBERT B. SWIERUPSKI
Director
National Commodity Specialist Division

[ATTACHMENT C]

HQ H202562
CLA-2 OT:RR:CTF:CPM H202562 CkG
CATEGORY: Classification
TARIFF NO: 2924.29.62

MS. INGE FORSTENZER
REN-PHARM INTERNATIONAL, LTD
350 JERICHO TURNPIKE
SUITE 204
JERICHO, NY 11753

RE: Revocation of NY N180809 and Modification of NY N043304; classification of Aliskiren Hemifumarate

DEAR MS. FORSTENZER:

This letter is in relation to New York Ruling Letters (NY) N180809 and N043304, issued to you on September 16, 2011, and November 7, 2008, respectively, regarding the classification of aliskiren hemifumarate under the HTSUS.

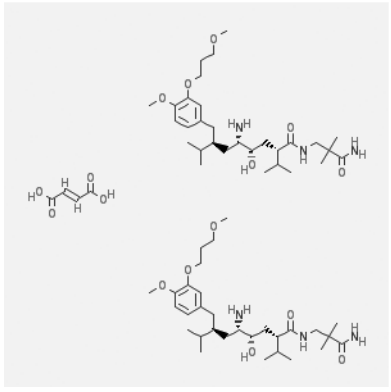
In NY N180809 and NY N043304, aliskiren hemifumarate in bulk form was classified in subheading 2924.29.6250, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Carboxyamide-function compounds; amide-function compounds of carbonic acid: Cyclic amides (including cyclic carbamates) and their derivatives; salts thereof: Other: Aromatic: Other: Drugs: Other: Other." There is no dispute that aliskiren hemifumarate is properly classified in 2924.29.62, HTSUS; however, neither NY N180809 nor NY N043304 afforded aliskiren hemifumarate duty free treatment under General Note 13. For the reasons set forth below, we have determined that the failure to grant aliskiren hemifumarate duty free treatment pursuant to General Note 13 was in error.

FACTS:

Aliskiren hemifumarate is an orally active renin inhibitor used in the treatment of hypertension. The chemical formula is $C_{64}H_{110}N_6O_{16}$. The prefix "hemi" refers to the ratio of fumarate to aliskiren molecules; specifically, 2 molecules of aliskiren for each molecule of fumarate.[1] The CAS number for aliskiren hemifumarate is 173334–58–2.

The chemical structure is included below:

[1] *See* CBP Laboratory Report NY20112129, dated December 20, 2011



ISSUE:

Whether aliskiren hemifumarate is eligible for duty free entry in accordance with General Note 13, HTSUS.

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings or notes do not require otherwise, the remaining GRIs 2 through 6 may be applied.

The HTSUS provisions under consideration are as follows:

2924:	Carboxyamide-function compounds; amide-function compounds of carbonic acid:					
		Cyclic amides (including cyclic carbamates) and their derivatives; salts thereof:				
2924.29:			Other:			
				Aromatic:		
					Other:	
						Drugs:
2924.29.62:						Other...
			*	*	*	* *

The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 29.24 provides as follows::

> This heading covers amide derivatives of carboxylic acids and of carbonic acid (but **not** amide derivatives of other inorganic acids - **heading 29.29**).
>
> Amides are compounds which contain the following characteristic groups:

($-CONH_2$)	(($-CO)_2NH$)	(($-CO)_3N$)
Primary amide	Secondary amide	Tertiary amide

The hydrogen of the ($-NH_2$) or (>NH) groups may be substituted by alkyl or aryl radicals, in which case the products are N– substituted amides.

Some amides of this heading also contain a diazotisable amine group. These amides and their salts, diluted to standard strengths for the production of azo dyes, are also included here.

(B) **CYCLIC AMIDES**

(1) **Ureines and ureides**.

The main ureines include:

(i) *p* -**Ethoxyphenylurea** (dulcin).

(ii) **Diethyldiphenylurea** (centralite)*.

(2) **Acetanilide, methyl- and ethylacetanilide, acet-*p*- phenetidide** (phenacetin), ***p*-acetamidophenol and *p*-acetamidosalol**, used in medicine.

(3) **Phenylacetamide**.

(4) ***N*-Acetoacetyl derivatives of cyclic amines**, e.g., acetoacetanilide; **amides of hydroxynaphthoic acid**, e.g., 3-hydroxy-2-naphthanilide; **diatrizoic acid and its salts**, used as opacifiers in radiography. Some of these compounds are known in trade as "**arylides**".

(5) **2-Acetamidobenzoic acid**. Colourless to yellowish crystals in the form of needles, plates or rhomboids. Used as a precursor in the production of methaqualone (INN) (see the list of precursors at the end of Chapter 29).

(6) **Alachlor** (ISO). 2-Chloro-*N*-(2,6-diethylphenyl)-*N* -(methoxymethyl) acetamide. ($C_{14}H_{20}ClNO_2$).

This heading **excludes**, however, heterocyclic ureides, e.g., malonylurea (barbituric acid) and hydantoin (**heading 29.33**).

* * * *

There is no dispute that Aliskiren Hemifumarate is classified in heading 2924, specifically subheading 2924.29.62; the compound contains an organic amide group which makes Aliskiren Hemifumarate a cyclic amide as described in EN 29.24; the presence of an aromatic ring results in subheading 2924.29. As it is a drug, prescribed for the management of hypertension, and it is not provided for subheading 2924.29.57, Aliskiren Hemifumarate falls under subheading 2924.29.62, HTSUS, as an "other" aromatic drug.

The issue is whether Aliskiren Hemifumarate is eligible for duty free entry in accordance with General Note 13, HTSUS.

General Note 13 states as follows:

> Pharmaceutical products. Whenever a rate of duty of "Free" followed by the symbol "K" in parentheses appears in the "Special" subcolumn for a heading or subheading, any product (by whatever name known) classifiable in such provision which is the product of a country eligible for tariff treatment under column 1 shall be entered free of duty, provided that such product is included in the pharmaceutical appendix to the tariff

schedule. Products in the pharmaceutical appendix include the salts, esters and hydrates of the International Non-proprietary Name (INN) products enumerated in table 1 of the appendix that contain in their names any of the prefixes or suffixes listed in table 2 of the appendix, provided that any such salt, ester or hydrate is classifiable in the same 6-digit tariff provision as the relevant product enumerated in table 1.

Both aliskiren and fumarate are listed in the pharmaceutical appendix to the HTSUS; aliskiren in Table 1, and fumarate in Table 2. Any combination of a base product listed in Table 1 and a prefix or suffix listed in Table 2 of the appendix is eligible for treatment under GN 13, provided that such combination is classified in the same 6-digit provision as the relevant product in table 1. Although "hemifumarate" is not specifically listed in table 2, aliskiren hemifumarate is considered synonymous with aliskiren fumarate, as the prefix "hemi" merely identifies the ratio of fumarate to aliskiren molecules (i.e., one molecule of fumarate for every two of aliskiren). Both aliskiren fumarate and aliskiren hemifumarate share the same chemical formula ($C_{64}H_{110}N_6O_{16}$) and CAS number (173334–58–2); therefore, as aliskiren fumarate is eligible for duty free treatment under GN 13, so is aliskiren hemifumarate.

HOLDING:

By application of GRIs 1 and 6, aliskiren hemifumarate is classified in heading 2924, HTSUS, specifically subheading 2924.29.62, HTSUS, which provides for "Carboxyamide-function compounds; amide-function compounds of carbonic acid: Cyclic amides (including cyclic carbamates) and their derivatives; salts thereof: Other: Aromatic: Other: Drugs: Other."

Aliskiren hemifumarate is eligible for duty free treatment under General Note 13, HTSUS.

EFFECT ON OTHER RULINGS:

NY N180809, dated September 16, 2011, is hereby revoked. NY N043304, dated November 7, 2008, is hereby modified with respect to the rate of duty applicable to aliskiren hemifumarate.

Sincerely,

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

19 CFR PART 177

REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF FIBER OPTIC RIBBON

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

ACTION: Notice of revocation of one ruling letter, and of revocation of treatment relating to the tariff classification of fiber optic ribbon3

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 revoking Headquarters Ruling Letter (HQ) 962445, dated April 3, 2001, concerning the tariff classification of fiber optic ribbon under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 51, No. 31, on August 2, 2017. One comment opposing the proposed revocation was received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–0024.

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) ("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 public 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, a notice was published in the *Customs Bulletin*, Vol. 51, No. 31, on August 2, 2017, proposing to revoke one ruling letter pertaining to the tariff classification of fiber optic ribbon. As stated in the proposed notice, this action will cover Headquarters Ruling Letter (HQ) 962445, dated April 3, 2001, as well as 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 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. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical 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 this notice.

In HQ 962445, CBP classified fiber optic ribbon in heading 8544, HTSUS, specifically in subheading 8544.70, HTSUS, which provides for "Insulated (including enameled or anodized) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fiber cables, made up of individually sheathed fibers, whether or not assembled with electric conductors or fitted with connectors: Optical fiber cables." It is now CBP's position that the optical fiber ribbon is properly classified in heading 9001, HTSUS, specifically in subheading 9001.10.00, HTSUS, which provides for "Optical fibers and optical fiber bundles; optical fiber cables other than those of heading 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked: [o]ptical fibers, optical fiber bundles and cables."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking HQ 962445 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H098958, set forth as an attach-

ment 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: September 27, 2017

ALLYSON MATTANAH
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H098958
September 27, 2017
CLA-2 OT:RR:CTF:TCM H098958 CKG
CATEGORY: Classification
TARIFF NO.: 9001.10.00

MELVIN S. SCHWECHTER
DEWEY & LEBOEUF, LLP
1101 NEW YORK AVENUE, NW
WASHINGTON, DC 20005–4213

RE: Revocation of Headquarters Ruling Letter (HQ) 962445 concerning the tariff classification of fiber optic ribbon

DEAR MR. SCHWECHTER:

This letter is in relation to Headquarters Ruling Letter (HQ) 962445 issued to you on April 3, 2001, on behalf of your client Alcoa Fujikura Ltd. In HQ 962445, CBP determined that fiber optic ribbon of various counts from 4–12 fibers was classified in subheading 8544.70 of the Harmonized Tariff Schedule of the United States (HTSUS), as optical fiber cable. It has come to our attention that our decision in HQ 962445 was incorrect. For the reasons set forth below, HQ 962445 is hereby revoked.

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 HQ 962445 was published on August 2, 2017, in Volume 51, Number 31 of the Customs Bulletin. One comment was received in opposition to the proposed action, and is addressed below.

FACTS:

CBP described the merchandise in HQ 962445 as follows:

> Fujikura provides that its optical fibers are approximately 250 microns in diameter, with glass core and cladding, and dual UV acrylate coatings, in keeping with industry standards. The documentation provided shows that an additional layer, a thin coating of color is also added to the dual acrylate coating. The dual acrylate coating provides important protection and structural integrity to the bare glass fibers, responsible for each optical fiber's tensile strength, to the extent that bare glass fibers could not be used without it. The application of dual UV acrylate coatings/sheathing provides significant protection against abrasion of the optical fibers, enhances tensile strength and reduces the effects of long-term stress, in particular exposure to humid environments which can lead to failure due to a phenomenon called "static fatigue." Fujikura's sample, and documentation, show that after the optical fibers are manufactured, individual optical fibers are placed into a horizontal configuration, laid side-by-side, using highly controlled tensions and geometric alignment fixtures. The optical fibers with dual acrylate coatings are then subjected to a further coating process whereby a plastic resin material ("matrix") is applied to bond the entire grouping of fibers together. Fujikura states that "the matrix coating covers the entire outside edge of each individual fiber, such that the circumference of each of the fibers is coated with the plastic material. The matrix material also forms the outer casing and shape of

the finished ribbon cable. The matrix material is cured and cooled to solidify the cable structure into its final shape. The finished optical fiber ribbon cable is then imported.

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.

The HTSUS headings under consideration are:

8544	Insulated (including enameled or anodized) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fiber cables, made up of individually sheathed fibers, whether or not assembled with electric conductors or fitted with connectors:
9001	Optical fibers and optical fiber bundles; optical fiber cables other than those of heading 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked:

In addition to the headings under consideration, Note 1(m) to Section XVI, HTSUS, the section in which heading 8544, HTSUS, is located, provides that articles of Chapter 90, HTSUS, are excluded from Section XVI, HTSUS. Further, Note 1(h) to Chapter 90, HTSUS, excludes fiber optic cable of heading 8544, HTSUS.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the HTSUS. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of the headings. It is Customs and Border Protection (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. See, T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 85.44 provides, in pertinent part, as follows:

> **Provided** they are insulated, this heading covers electric wire, cable and other conductors (e.g., braids, strip, bars) used as conductors in electrical machinery, apparatus or installations. **Subject** to this condition, the heading includes wiring for interior work or for exterior use (e.g., underground, submarine or aerial wires or cables). These goods vary from very fine insulated wire to thick cables of more complex types.
>
> ...
>
> The heading also covers optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors. The sheaths are usually of different colours to permit identification of the fibres at both ends of the cable. Optical fibre cables are used mainly in telecommunications because their capacity for the transmission of data is greater than that of electrical conductors.

EN 90.01 provides, in pertinent part:

This heading covers:

(A) **Optical fibres and optical fibre bundles, as well as optical fibre cables other than those of heading 85.44**.

Optical fibres consist of concentric layers of glass or plastics of different refractive indices. Those drawn from glass have a very thin coating of plastics, invisible to the naked eye, which renders the fibres less prone to fracture. Optical fibres are usually presented on reels and may be several kilometers in length. They are used to make optical fibre bundles and optical fibre cables.

Optical fibre bundles may be rigid, in which case the fibres are agglomerated by a binder along their full length, or they may be flexible, in which case they are bound only at their ends. If coherently bundled, they are used for transmission of images, but if randomly bundled, they are suitable only for transmission of light for illumination.

Optical fibre cables of this heading (which may be fitted with connectors) consist of a sheath containing one or more optical fibre bundles, the fibres of which are not individually sheathed.

Optical fibre bundles and cables are used primarily in optical apparatus, particularly in endoscopes of heading 90.18.

Heading 9001, HTSUS, provides for optical fibers, optical bundles, and optical fiber cables other than those of heading 8544, HTSUS. The term "bundle" is not defined in the HTSUS. When a term is not defined by the HTSUS or the legislative history, its correct meaning is its common, or commercial, meaning. *See Rocknel Fastener, Inc. v. United States*, 267 F.3d 1354, 1356 (Fed. Cir. 2001). The *Oxford English Dictionary* (2nd Ed. 1989) defines the term "bundle" as "[a] collection of things bound or otherwise fastened together; a bunch; a package, parcel."[1] In addition, the fiber optic industry has defined "bundle" as "[m]any individual fibers contained within a single jacket or buffer tube. Also a group of buffered fibers distinguished in some fashion from another group in the same cable core." *See* OFS Fitel, Inc., 2002, *Glossary of Optical Fiber Terms*.[2] Thus, based on the common and commercial definitions a fiber optic bundle is a collection of fiber optic fibers that are either completely or partially bound together within a single jacket or buffer.

In this case, the product is described as optical fiber ribbon ranging in counts from 4 to 12 individually sheathed optical fibers. The fibers are aligned side by side and are then coated with a plastic resin matrix which makes the products appear to be similar to a flat ribbon. With respect to this product, the individually sheathed fibers are bound together using the plastic matrix, which acts as a buffer. The product falls squarely within the meaning of bundle provided by the fiber optic industry as well as EN 90.01. Therefore, CBP finds that this product is described *eo nomine* in heading 9001, HTSUS. As such it is an article of Chapter 90, HTSUS, thereby excluding it from Section XVI, HTSUS.

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[1] *http://www.oed.com/view/Entry/24748?rskey=IwD4pX&result=1&isAdvanced=false#eid*

[2] *See http://www.ofsoptics.com/resources/glossary.pdf*

Furthermore, the optical fiber bundle is not fiber optic cable of heading 8544, HTSUS. The phrase "fiber optic cable" is not defined in the HTSUS. However, CBP has historically defined fiber optic cable as "[o]ne or more optical fibers enclosed within protective covering(s) and strength members[3]." *See* HQ 966619, dated October 21, 2003; *quoting The Fiber Optic Reference Guide*, David R. Goff, Focal Press, (1996) at p. 153. This definition is in accord with a more recent definition in the *Glossary of Optical Fiber Terms* by OFS Fitel, dated January 18, 2002[4], which defines the phrase "fiber optic cable" as "[a]n optical fiber, multiple fiber, or fiber bundle which includes a cable jacket and strength members, fabricated to meet optical, mechanical, and environmental specifications."[5]

CBP has therefore held repeatedly that classification in heading 8544, as an optical fiber cable made up of individually sheathed fibers, requires the following: one or more individually sheathed optical fibers, *and* additional materials, including buffers, strengthening members, and jackets for protection. *See* e.g., HQ 964883, dated September 14, 2001 (finding that merchandise consisting of single strand optical fibers individually jacketed, without the inclusion or use of any other protective buffers, coatings, or strengthening materials was properly classified in heading 9001); HQ 966619 (finding that individually sheathed optical fibers that do not possess additional protective materials, strengtheners, or jacketing are not cables within the meaning of heading 8544); HQ W968251, dated October 3, 2007 (revoking the classification of individually sheathed optical fibers without an outer jacket or strength members in heading 8544, and reclassifying them in heading 9001); NY N132435 December 10, 2010 (finding that optical fiber assemblies with a protective buffer and outer jacket but without strength members are classified in heading 9001).

Thus, without insulating jackets and strengthening members, you have optical fibers, but even when multiple, individually sheathed optical fiber strands are bundled together, you do not yet have optical fiber *cable* of heading 8544 without the additional strength members and outer jacket. *See* HQ 964883 ("It is clear, then, that the dual acrylate or thermoplastic coating, even to a thickness of 900 microns, is not sufficient to create a cable. Additional materials, such as strengthening or protective members and jacketing are required. Buffers that are protective coatings applied directly to the fibers would not constitute such materials. Buffered fibers must be further protected by some sort of strength members and/or jackets to qualify as cable.")

Applying these criteria to the subject merchandise, CBP finds that the instant optical fiber product does not meet the commercial definitions of fiber optic cables of heading 8544, HTSUS, because it lacks strength members and a protective outer jacketing.

One comment was received in response to the proposed notice, arguing for CBP to withdraw the proposed revocation and maintain the classification of

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[3] A "strength member" is an enclosure for the jacketed fiber, consisting usually of a flexible polymer such as aramid, which absorbs the tension needed to pull the cable and provides cushioning for the fibers.

[4] *See http://www.ofsoptics.com/resources/glossary.pdf*

[5] We note, however, that our conclusion that the instant glass fiber optic ribbon must possess strength members in order to be classified in heading 8544, HTSUS, does not extend to optical fiber cables constructed of plastic fibers. *See* HQ H251018 (proposed revocation of New York Ruling Letter (NY) N247006, published in Volume 50, Number 33 of the Customs Bulletin on August 17, 2016).

the instant optical fiber bundles in heading 8544, HTSUS. The comment argues that there is no support in the tariff for the requirement that cables of heading 8544, HTSUS, must have strength members, and cites to HQ H251018 (the proposed revocation of New York Ruling Letter (NY) N247006, published in Volume 50, Number 33 of the Customs Bulletin on August 17, 2016) and HQ 965593 in support of that argument. The comment additionally argues that, pursuant to the ENs of each heading, products of heading 9001, HTSUS, are not used in telecommunications, but rather in medical and optical devices.

We note that the optical fiber cables described in HQ 965593 and the other rulings it affirmed (HQ 964632, HQ 963256, HQ 963213, and HQ 963016) were composed of two or more strands of glass optical fibers, with each fiber individually covered in a polymer coating similar to the instant optical fibers, but also all grouped within buffered tubes or similar coverings, accompanied by different types of insulation, and all contained within an outermost layer or jacket. Thus, in all of those cases, multiple individually sheathed optical fibers and/or bundles of such optical fibers were jacketed together with other materials providing mechanical and environmental protection and optical insulation.

The optical fibers imported by Fujikura are, by contrast, optical fibers covered in only a dual acrylate coating of unspecified thickness, then bound together in an additional plastic matrix. The subject merchandise may be considered "individually sheathed," but it is readily distinguishable from the optical fiber cables described in HQ 965593 and related cases in which individually sheathed optical fibers and/or bundles of such optical fibers were jacketed together with other materials providing mechanical and environmental protection and optical insulation. As discussed above, lacking strength members and outer jacketing, individually sheathed optical fibers, whether imported in single strands or assembled together, are not optical fiber cables of heading 8544, HTSUS. While EN 90.01 does provide that, "[t]he heading . . ., excludes optical fibre cables made up of individually sheathed fibres (heading 85.44)," contrary to protestant's assertion neither heading 9001 nor the ENs provide that individual sheathed optical fibers alone constitute an optical fiber cable under EN 8544.

In HQ H251018, CBP determined that *plastic* optical fiber cables, made up of individually sheathed plastic fibers, do not need to employ strength members in order to be classifiable in heading 8544, HTSUS, as such a requirement is not supported by the text of the tariff, nor does it reflect commercial realities associated with plastic optical fiber. As specifically noted in the ruling, this conclusion does not apply to *glass* optical fiber cables, because the plastic optical fibers are usually employed over relatively short distances and are flexible enough to withstand greater amounts of bending stress than glass optical fiber and, thus, typically do not employ or need strength members.

Finally, we note that the determining factor in the classification of optical fiber cables or bundles in heading 8544 or heading 9001 is the physical characteristics of the article; their use is secondary to their construction in determining whether heading 8544 or heading 9001 applies. Although EN 85.44 and EN 90.01 state that cables and optical fiber bundles of these headings are used in telecommunications and optical equipment, respectively, neither Explanatory Note limits the use of these products exclusively to telecommunications for cables of heading 8544 or optical apparatus for products of heading 9001. *See e.g.*, HQ W968251, dated October 3, 2007.

HOLDING:

By application of GRIs 1 and 6, the optical fiber ribbons are classified in heading 9001, HTSUS, more specifically in subheading 9001.10.00, HTSUS, which provides for "[o]ptical fibers and optical fiber bundles; optical fiber cables other than those of heading 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked: [o]ptical fibers, optical fiber bundles and cables." The 2017 column one, general rate, of duty is 6.7% *ad valorem*.

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

EFFECT ON OTHER RULINGS:

HQ 962445, dated April 3, 2001, is hereby revoked.

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

Sincerely,

ALLYSON MATTANAH
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

PROPOSED MODIFICATION OF ONE RULING LETTER AND REVOCATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF FREE-WHEEL BICYCLE COGS AND CASSETTES

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

ACTION: Notice of proposed modification of one ruling letter and revocation of two ruling letters, and revocation of treatment relating to the tariff classification of free-wheel bicycle cogs and cassettes.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke or modify three ruling letters concerning tariff classification of free-wheel bicycle cogs and cassettes under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to

revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before December 1, 2017.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Dwayne Rawlings, Electronics, Machinery, Automotive, and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0092.

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) ("Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerged 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 public 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, this notice advises

interested parties that CBP is proposing to revoke or modify three ruling letters pertaining to the tariff classification of free-wheel bicycle cogs and cassettes. Although in this notice, CBP is specifically referring to Headquarters Ruling Letter ("HQ") HQ H174522, dated June 5, 2012; HQ H161003, dated May 13, 2013; and New York Ruling Letter ("NY") N116976, dated August 20, 2010 (Attachments A, B and C, respectively), 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 three 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 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 proposing 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 HQ H174522, HQ H161003 and NY N116976, CBP classified certain free-wheel bicycle cogs and cassettes in heading 8714, HTSUS, specifically in subheading 8714.99.80, HTSUS, which provides for other parts and accessories of vehicles of heading 8711, other, other, other. CBP has reviewed HQ H174522, HQ H161003 and NY N116976, and has determined the ruling letters to be in error. It is now CBP's position that the free-wheel bicycle cogs and cassettes are properly classified, by operation of GRIs 1 and 6, in subheading 8714.93.70, HTSUS, which provides for free-wheel sprocket-wheels.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to modify HQ H174522, and revoke HQ H161003 and NY N116976, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H288022, set forth as Attachment D to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing 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: August 24, 2017

GREG CONNOR
For
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

HQ H174522

June 5, 2012
CLA-2 OT:RR:CTF:TCM
CATEGORY: Classification
TARIFF NO.: 8714.99.80; 8714.93.35

U.S. CUSTOMS AND BORDER PROTECTION
SEATTLE SERVICE PORT
1000 SECOND AVE., SUITE 2100
SEATTLE, WA 98104

Attn: Heather Scott, Senior Import Specialist

RE: Tariff classification of bicycle cogs and bicycle hubs; Protest Number 3001–11–100145

DEAR PORT DIRECTOR:

This letter is in reply to protest, and application for further review (AFR), number 3001–11–100145, dated March 31, 2011, filed on behalf of Trek Bicycle Corporation (Protestant), against U.S. Customs and Border Protection's (CBP) reclassification and subsequent liquidation of one entry of bicycle cogs and wheel hubs.

FACTS:

This protest pertains to one entry of rear hub cogs and front and rear wheel aluminum alloy bicycle wheel hubs imported for installation onto Trek bicycles and wheels. The hubs are quick release hubs and are constructed of aluminum alloy with hollow unthreaded axles. After importation, a lever-operated quick release mechanism, also known as a quick release skewer, will be added to the subject hubs. The quick release skewer allows the bicycle owner to quickly remove and replace the wheel without the use of tools.

The cogs at issue are circular articles of metal with teeth on their outer edges and holes in their middles. They are also referred to as "sprockets" and, after importation, they are assembled to form a "cluster" or "cassette" by being grouped to fit one upon another. The cassette is attached to the rear hub (center bar from which the spokes extend) of a bicycle wheel by lining up splines on the rear hub with grooves formed by the aligned cogs on the inner surface of the cassette, and pushing the cassette towards the center of the hub. The cassette is then secured to the hub with a lock nut. The cassettes are referred to as "SRAM XG-1099," "SRAM PG 1050," and "SRAM PG 1070." The rear portion of the bicycle pedal chain is wrapped around the cassette so that the rear wheel rotates when the bicycle is pedaled.

Protestant entered the cogs on September 17, 2010, under subheading 8714.93.70, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Parts and accessories of [bicycles]: Other: Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket wheels: Free-wheel sprocket-wheels," free of duty. On March 18, 2011, CBP reclassified and liquidated the merchandise under subheading 8714.99.80, HTSUS, which provides for "Parts and accessories of [bicycles]: Other: Other: Other..." dutiable at 10% ad valorem.

Also on September 17, 2010, Protestant entered the hubs under subheading 8714.93.05, Harmonized Tariff Schedule of the United States (HTSUS),

which provides for: "[p]arts and accessories of vehicles of headings 8711 to 8713: Other: Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket-wheels: Hubs: Aluminum alloy hubs with a hollow axle and lever-operated quick release mechanism...." and free of duty. At liquidation, on March 18, 2011, the bicycle wheel hubs were classified under subheading 8714.93.35, HTSUS, which provides for "[p]arts and accessories of vehicles of headings 8711 to 8713: Other: Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket-wheels: Hubs: Other: Other..." dutiable at 10% ad valorem.

ISSUE:

Whether, at the time of importation, the subject bicycle wheel hubs possess the essential character of aluminum alloy hubs with a hollow axle and a lever-operated quick release mechanism provided for under subheading 8714.93.05, HTSUS?

Whether, at the time of importation, the subject bicycle cogs are classified under subheading 8714.93.70, HTSUS, as free-wheel sprocket-wheels; under subheading 8714.93.35, HTSUS, as other hubs; or under subheading 8714.99.80, HTSUS, as other parts of bicycles

LAW AND ANALYSIS:

Initially we note that the matter is protestable under 19 U.S.C. §1514(a)(2) as a decision on classification and the rate and amount of duties chargeable. The protest was timely filed on March 31, 2011, within 180 days of liquidation, pursuant to 19 U.S.C. §1514(c)(3).

Further review of Protest No. 3001–11–100145 was properly accorded to Protestant pursuant to 19 C.F.R. §174.24. Specifically, in accordance with Section 174.24(b), the decision against which the protest was filed involves questions of law or fact which had not been ruled upon by the Commissioner of CBP or his designee or by the Customs courts (i.e., the scope of subheading 8714.93.70, HTSUS).

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 (2010) HTSUS provisions under consideration at the time of entry are as follows:

8714	Parts and accessories of vehicles of headings 8711 to 8713:
	Other:
8714.93	Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket-wheels:
	Hubs:
8714.93.05	Aluminum alloy hubs with a hollow axle and lever-operated quick release mechanism
	Other:
8714.93.35	Other.

* * *

8714.93.70		Free-wheel sprocket-wheels
* * *		
8714.99	Other:	
8714.99.80		Other.
* * * *		

Classification of the hubs

With regard to the classification of the hubs, the analysis and holding contained in HQ H125916, dated April 20, 2011, are incorporated by reference. The hubs are classified under subheading 8714.93.35, HTSUS, which provides for: "[p]arts and accessories of vehicles of headings 8711 to 8713: Other: Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket-wheels: Hubs: Other: Other..." The column one, general rate of duty at the time of entry was 10 percent ad valorem. (See attached).

Classification of the cogs

It is undisputed that the subject bicycle rear cogs are classified under heading 8714, HTSUS, as parts of bicycles. Because the dispute before us occurs beyond the heading level of the HTSUS, GRI 6 is implicated. GRI 6 states the following:

For legal purposes, the classification of goods in the subheading 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 subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires.

Protestant first asserts that the cogs are classified under subheading 8714.93.70, HTSUS, as free-wheel sprocket-wheels because (1) they are essentially indistinguishable from "traditional" free-wheel sprocket-wheels that have been classified in subheading 8714.93.70, HTSUS; and (2) CBP has previously classified an item substantially similar to the instant merchandise under subheading 8714.93.79, HTSUS.

Subheading 8714.93.70, HTSUS, is an eo nomine provision and the meaning of an eo nomine classification is determined as of the time of the enactment of the tariff provisions. However, that meaning in not fixed in that an eo nomine provision includes all articles subsequently created that come within its scope. FAG Bearings, Ltd. v. United States, 9 C.I.T. 227, 228 (1985); see also National Advanced Systems v. United States, 26 F.3d 1107, 1111 (Fed. Cir. 1994).

The term "free-wheel sprocket-wheel" is not defined in the HTSUS or in its legislative history, thus, its correct meaning is its common, or commercial, meaning. Mita Copystar America v. United States, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term is presumed to be the same as its commercial meaning. Simod America Corp. v. United States, 872 F.2d 1572, 1576 (Fed. Cir. 1989).

Protestant asserts that the common or commercial meaning of "free-wheel" has evolved with the evolution of bicycling technology, and that the cogs at issue perform the same function (when combined) as the older "multiple

free-wheel sprockets," and essentially represent only a technological improvement upon the "traditional" design. We disagree for the following reasons.

When the term "free-wheel sprocket wheels" appeared in the HTSUS, assemblages of the cogs at issue were a nascent technology and not yet in widespread use. What is commonly and has traditionally been referred to within the bicycle industry as a "freewheel" possesses an internal ratcheting mechanism and is screwed onto a compatible wheel hub of a bicycle. *See* Sutherland's Handbook for Bicycle Mechanics, 4–26 to 4–49 (7th Ed. 2005); *see also* www.sheldonbrown.com/free-k7.html. The compatible wheel hub possesses a standardized set of threads that allows for the efficient replacement of a freewheel when its cogs wear out or if a user desires different gear ratios. *See* www.sheldonbrown.com/freewheels.html. In time, it became known that using an increasing number of cogs on a freewheel hub could cause the bearing inside of the freewheel to be too far removed from the drive-side axle support, resulting in flexing stress being placed upon the rear axle and possibly causing the axle to bend or break.

The instant cogs are designed to overcome that limitation. Instead of screw threads, they possess a series of splines that form the mechanical connection between the cogs and a compatible hub (a freehub). The cluster of cogs (the cassette) is locked into place by a locknut. The cassette possesses no contained free wheel rotating mechanism; rather, the rotating mechanism is built into the wheel hub, which virtually eliminates the flexing stress overload issue common with freewheels by placing the driver-side axle bearing near the frame, as opposed to towards the center of the axle behind a free wheel. These differences in design and functionality have led to the bicycling industry to clearly distinguish and market clusters of the instant cogs as freehub cassettes, as opposed to freewheels. *See* www.bikepedia.com/PA/category3.aspx?catkey=2006. Images of a freehub and a freewheel hub, and a freehub cassette and freewheel, appear below.

Protestant also refers to New York Ruling (NY) R02468, dated September 13, 2005, in which CBP classified an item described as "bicycle cog (toothed wheel that is part of the drive chain; one component of the rear hub assembly) 3" diameter 1/8" thick teeth are spaced at ½" intervals)" under subheading 8714.93.70, HTSUS, covering free-wheel sprocket-wheels. Although there is nothing within the text of the ruling to support Protestant's understanding that the cog possesses splines or is used with a locknut, Protestant concludes that the instant cog is substantially similar to that cog, compelling classification of the instant cog under subheading 8714.93.70, HTSUS, as well. Without information that supports Protestant's assumption, we cannot rely on NY R02468 as a basis for ruling in Protestant's favor.

Finally, with regard to the applicability of subheading 8714.93.35, HTSUS, which covers "other" hubs, Protestant has submitted no evidence in support of its argument that the subject cogs are hubs. The term (bicycle) "hub" is not defined tariff in the HTSUS or in its legislative history. Thus, its correct meaning is its common, or commercial, meaning. The Oxford English Dictionary defines "hub" as the "central solid part of the axle from which the spokes radiate and which rotates on (or with) the axle." www.oed.com; *see also* http://sheldonbrown.com/gloss_ho-z.html#hub (defining hub as "[t]he middle part of a wheel, to which the inside ends of the spokes attach. A hub consists of an axle, which attaches to the forkends; a shell, to which the spokes attach, and bearings to connect the axle to the shell, permitting the

shell to revolve around the axle. In the case of a rear hub, the shell would also have a provision for attaching the rear sprocket(s).") The instant cogs are not hubs within the meaning of subheading 8714.93, HTSUS, because no spokes are attached to them, they do not contain bearings, nor do they consist of an axle and shell. Instead, they attach to hubs.

In conclusion, the subject cogs are not classifiable as hubs, nor are they classifiable as "free-wheel sprocket-wheels." They are combined to be used with bicycle freehubs and are properly classifiable under subheading 8714.99.80, HTSUS, as other parts and accessories of bicycles.

HOLDING:

By application of GRI 1, HTSUS, the instant cogs are classified under heading 8714, HTSUS. By application of GRIs 1 and 6, HTSUS, the cogs are specifically provided for under subheading 8714.99.80, HTSUS, which provides for: "[p]arts and accessories of vehicles of headings 8711 to 8713: Other: Other: Other." The column one, general rate of duty at the time of entry was 10 percent ad valorem.

By application of GRI 1, HTSUS, the instant front and rear wheel aluminum alloy bicycle wheel hubs are classified under heading 8714, HTSUS. By application of GRIs 1 and 6, HTSUS, they are specifically provided for under subheading 8714.93.35, HTSUS, which provides for: "[p]arts and accessories of vehicles of headings 8711 to 8713: Other: Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket-wheels: Hubs: Other: Other...." The column one, general rate of duty at the time of entry was 10 percent ad valorem.

The protest should be denied. In accordance with Sections IV and VI of the CBP Protest/Petition Processing Handbook (HB 3500–08A, December 2007, pp. 24 and 26), you are to mail this decision, together with the CBP Form 19, to the protestant no later than 60 days from the date of this letter.

Any reliquidation of the entry in accordance with the decision must be accomplished prior to mailing of the decision. Sixty days from the date of the decision Regulations and Rulings of the Office of International Trade will make the decision available to CBP personnel, and to the public on the CBP Home Page at www.cbp.gov, by means of the Freedom of Information Act, and other methods of public distribution.

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

[ATTACHMENT B]

H161003

May 13, 2013
CLA-2 OT:RR:CTF:TCM
CATEGORY: Classification
TARIFF NO.: 8714.99.80

PORT DIRECTOR
U.S. CUSTOMS AND BORDER PROTECTION
CHICAGO SERVICE PORT
5600 PEARL STREET
ROSEMONT, IL 60018

Attn: Jeffrey Kiekenbush, IS Team 307

RE: Internal advice request concerning the classification of bicycle cogs

DEAR SIR:

This is in response to the request for internal advice submitted by counsel for importer SRAM, LLC ("SRAM"), dated April 4, 2011, regarding the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) of certain bicycle cogs.

FACTS:

The items at issue are circular articles of metal with teeth on their outer edges and holes in their middles. They are also referred to as "sprockets" or "cogs" and, after importation, they are assembled to form a "cluster" or "cassette" by being grouped to fit one upon another. The cassette is attached to a rear hub (center bar from which the spokes extend) of a bicycle wheel by lining up splines on the rear hub with grooves formed by the aligned cogs on the inner surface of the cassette, and pushing the cassette towards the center of the hub. The cassette is then secured to the hub with a lock nut. The rear portion of the bicycle pedal chain is wrapped around the cassette so that the rear wheel rotates when the bicycle is pedaled. SRAM asserts that the cogs should be classified under subheading 8714.93.70, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Parts and accessories of [bicycles]: Other: Hubs, other than coaster braking hubs and hub brakes, and free wheel sprocket wheels: Free-wheel sprocket-wheels," free of duty.

ISSUE:

Whether, at the time of importation, the subject bicycle cogs are classified under subheading 8714.93.70, HTSUS, as free-wheel sprocket-wheels, or under subheading 8714.99.80, HTSUS, as other parts of bicycles.

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:

8714	Parts and accessories of vehicles of headings 8711 t to 8713:	
		Other:
8714.93		Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket-wheels:
* * *		
8714.93.70		Free-wheel sprocket-wheels
* * *		
8714.99		Other:
8714.99.80		Other.
* * * *		

With regard to the classification of the subject cogs and the arguments made by counsel, the analysis and holding contained in HQ H174522, dated June 5, 2012, are incorporated by reference. The cogs are properly classifiable under subheading 8714.99.80, HTSUS, as other parts and accessories of bicycles.

HOLDING:

By application of GRIs 1 and 6, HTSUS, the subject cogs are specifically provided for under subheading 8714.99.80, HTSUS, which provides for: "Parts and accessories of vehicles of headings 8711 to 8713: Other: Other: Other."

Sixty days from the date of this decision, the Office of International Trade, Regulations and Rulings, will make this decision available to CBP personnel, and to the public on the CBP Home Page at www.cbp.gov, by means of the Freedom of Information Act, and other methods of public distribution.

Sincerely,

MYLES HARMON,
Director
Commercial and Trade Facilitation Division

[ATTACHMENT C]

N116976

August 20, 2010
CLA-2–87:OT:RR:NC:N1:101
CATEGORY: Classification
TARIFF NO.: 8714.99.8000

AARON PHILLIPS
KINK, INC.
40 GREENLEAF ST.
ROCHESTER, NY 14609–7344

RE: The tariff classification of a bicycle part from an unspecified country

DEAR MR. PHILLIPS,

In your letter dated July 29, 2010, you requested a tariff classification ruling.

The item concerned is a Cassette Single-speed Driver Unit. It is a cylindrical piece of metal with a hole in its center and a star-shaped flange. You state that the Unit is attached to the rear wheel hub of a bicycle and the bicycle chain is wrapped around the Unit; when the bicycle pedals are cranked, the chain causes the Unit to revolve the rear bicycle hub, thus causing the rear bicycle wheel to revolve and propel the bicycle. You further state that the Unit contains internal bearings, that the teeth (star points) of the Unit range between 8 and 13 and its weight is approximately 3.8 oz.

The applicable classification subheading for the Cassette Single-speed Driver Unit will be 8714.99.8000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Parts ... of [bicycles]: Other: Other." The rate of duty will be 10%.

Duty rates are provided for your convenience and are subject to change. The text of the most recent Harmonized Tariff Schedule of the United States and the accompanying duty rates are provided on the World Wide Web at http://ww.usitc.gov/tata/hts/.

The merchandise in question may be subject to antidumping duties or countervailing duties. Written decisions regarding the scope of AD/CVD orders are issued by the Import Administration in the Department of Commerce and are separate from tariff classification and origin rulings issued by Customs and Border Protection. You can contact them at http://www.trade.gov/ia/ (click on "Contact Us"). For your information, you can view a list of current AD/CVD cases at the United States International Trade Commission website at http://www.usitc.gov (click on "Antidumping and countervailing duty investigations"), and you can search AD/CVD deposit and liquidation messages using the AD/CVD Search tool at http://www.cbp.gov (click on "Import" and "AD/CVD").

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 Laman at 646–733–3017.

Sincerely,

ROBERT B. SWIERUPSKI
Director
National Commodity Specialist Division

[ATTACHMENT D]

HQ H288022
CLA-2 OT:RR:CTF:TCM H288022 DSR
CATEGORY: Classification
TARIFF NO.: 8714.93.70

U.S. CUSTOMS AND BORDER PROTECTION
ATTN: HEATHER SCOTT, SENIOR IMPORT SPECIALIST
SEATTLE SERVICE PORT
1000 SECOND AVENUE, SUITE 2100
SEATTLE, WA 98104

RE: Modification of HQ H174522; revocation of HQ H161003 and NY N116976; tariff classification of free-wheel bicycle cogs; Protest Number 3001–11–100145

DEAR PORT DIRECTOR:

In Headquarters Ruling Letter ("HQ") H174522, dated June 5, 2012, U.S. Customs and Border Protection ("CBP") classified certain free-wheel bicycle cogs in subheading 8714.99.80, HTSUS, which provides for other parts of bicycles. The ruling also classified front and rear wheel aluminum bicycle wheel hubs in subheading 8714.93.35, HTSUS, which provides for hubs other than coaster braking hubs and hub brakes, other, other. Since HQ H174522 was issued, CBP has reviewed the ruling and determined that the classification provided for the cogs is incorrect and, therefore, that portion of the ruling must be modified for the reasons set forth in this ruling. Additionally, HQ H161003 (May 13, 2013) and NY N116976 (August 20, 2010), which also classified substantially similar articles under subheading 8714.99.80, HTSUS, are revoked for the same reasons.

FACTS:

The relevant merchandise subject to HQ H174522 was described as one entry of rear hub cogs imported for installation onto bicycles and wheels. The cogs at issue are circular articles of metal with teeth on their outer edges and holes in their middles. They are also referred to as "sprockets" and are assembled to form a "cluster" or "cassette" by being grouped to fit one upon another. The cassette is then attached to the rear hub (center bar from which the spokes extend) of a bicycle wheel by lining up splines on the rear hub with grooves formed by the aligned cogs on the inner surface of the cassette, and pushing the cassette towards the center of the hub. The cassette is then secured to the hub with a lock nut. The cassettes are referred to as "SRAM XG-1099," "SRAM PG 1050," and "SRAM PG 1070." The rear portion of the bicycle pedal chain is wrapped around the cassette so that the rear wheel rotates when the bicycle is pedaled.

The cogs were entered under subheading 8714.93.70, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Parts and accessories of [bicycles]: Other: Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket wheels: Free-wheel sprocket-wheels," free of duty. CBP reclassified and liquidated the merchandise under subheading 8714.99.80, HTSUS, which provides for "Parts and accessories of [bicycles]: Other: Other: Other..." dutiable at 10% *ad valorem*.

ISSUE:

Whether the articles are classified under subheading 8714.99.80, HTSUS, which provides for other parts of bicycles, or in subheading 8714.93.70, HTSUS, which provides for free-wheel sprocket wheels.

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 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. The HTSUS provisions under consideration in this ruling are as follows:

8714	Parts and accessories of vehicles of headings 8711 to 8713:
	Other:
8714.93	Hubs, other than coater braking hubs and hub brakes, and free-wheel sprocket-wheels:
8714.93.70	Free-wheel sprocket-wheels.
8714.99	Other:
8714.99.80	Other.

* * * *

First, we note that in HQ H174522, CBP incorrectly identified the articles under consideration as single cogs (or "sprockets") that are assembled into cassettes post-importation. It appears the articles are actually imported as multiple cogs assembled into cassettes by being grouped to fit one upon another. However, this discrepancy does not affect our interpretation of the scope of subheading 8714.93.70, HTSUS, because subheading 8714.93.70 covers both "Multiple free-wheel sprockets" or cassettes (subheading 8714.93.7030), and "Other" or single free-wheel sprocket-wheels (subheading 8714.93.7060).

CBP also concluded that articles did not meet the common and commercial meaning of the term "free-wheel sprocket-wheels" because the articles did not screw onto a bicycle wheel's hub and did not possess an internal ratcheting mechanism common to older "traditional" cogs and cassettes that we believed were contemplated by the term "free-wheel sprocket-wheels." *Citing Sutherland's Handbook for Bicycle Mechanics,* 4–26 to 4–49 (7th Ed. 2005); *also* www.sheldonbrown.com/free-k7.html. We concluded that those differences in design and functionality led to the bicycling industry distinguishing such cassettes from "free-wheels" and marketing them as "freehub cassettes." *Citing* www.bikepedia.com/PA/category3.aspx?catkey=2006.

We have now re-examined that conclusion and believe that the interpretation of the subheading term "free-wheel sprocket wheels" in HQ H174522 is unnecessarily restrictive and does not adequately take into account that the more technologically advanced or improved articles at issue share the

essential characteristics of the older free-wheel cogs and cassettes that have been within the scope of subheading 8714.93.70, HTSUS. To wit, courts have long ruled that *eo nomine* provisions for the classification of merchandise necessarily include technological advancements or commercially sophisticated versions of the same articles. *Borneo Sumatra Trading Co., Inc. v. United States*, 311 F. Supp. 326, 338–39 (Cust. Ct. 1970) (*citing R.J. Saunders & Co., Inc. v. United States*, 49 C.C.P.A. 87, C.A.D. 801 (1962)). *See also Simmon Omega, Inc. v. United States*, 83 Cust.Ct. 14, C.D. 4815 (1979), and *Trans-Atlantic Co. v. United States*, 471 F.2d 1397, 60 C.C.P.A. 100, C.A.D. 1088 (1973), in which the courts have held that technological advancements and "improvement in the design of an article does not militate against its continuing to be a form of the named articles." In *Wagner Spray Tech. Corp. v. United States*, 31 C.I.T. 676, 680 (2007), the Court of International Trade concluded that an *eo nomine* provision may be expanded to include improved merchandise only when the essential characteristic is shared between the original and improved good. ("[A]n article which has been improved or amplified but whose essential characteristic is preserved or only incidentally altered is not excluded from an unlimited *eo nomine* statutory designation.") (*quoting Casio, Inc. v. United States*, 73 F.3d 1095, 1098 (Fed. Cir. 1996)).

Whether cogs or cassettes slide onto a wheel hub and are locked with a locknut, and contain an internal ratcheting mechanism, or are instead designed to directly screw onto a free-wheel hub without possessing an internal ratcheting mechanism, the purposes and defining features of the articles are to allow a bicycle power train to be engaged when pedaling forward and coast freely when not pedaled or pedaling backwards. Subheading 8714.93.70, HTSUS, does not require that a clutch mechanism must be located inside of a cog, or cassette, and outside of the rear hub, in order for the articles to be classified in that subheading. Nor is there a requirement that such articles screw directly onto a wheel hub. Instead, the overriding question is whether the article under consideration functions as a sprocket-wheel of the free-wheel type. Here, the subject articles act as free-wheel sprocket-wheels of subheading 8714.93.70, HTSUS, by allowing a bicycle power train to be engaged when pedaling forward and coast freely when not pedaled or pedaling backwards. For those reasons, we find that the subject articles (cassettes) of HQ H174522 are instead properly classified in subheading 8714.93.70, HTSUS, as "free-wheel sprocket-wheels," and free of duty.

In HQ H161003, the items under consideration are described as circular articles of metal with teeth on their outer edges and holes in their middles. They are also referred to as "sprockets" or "cogs" and, after importation, they are assembled to form a "cluster" or "cassette" by being grouped to fit one upon another. The cassette is attached to a rear hub (center bar from which the spokes extend) of a bicycle wheel by lining up splines on the rear hub with grooves formed by the aligned cogs on the inner surface of the cassette, and pushing the cassette towards the center of the hub. The cassette is then secured to the hub with a lock nut. The rear portion of the bicycle pedal chain is wrapped around the cassette so that the rear wheel rotates when the bicycle is pedaled. The items are substantially similar to those of HQ H174522, *supra*, and were also incorrectly classified in subheading 8714.99.80, HTSUS, as other parts of bicycles, by incorporating the holding of HQ 174522 by reference. Given our reconsideration of that holding, we now find that the cogs of HQ H161003 are instead properly classified in subheading 8714.93.70, HTSUS, as "free-wheel sprocket-wheels."

Finally, we note that in NY N116976, CBP classified a "Cassette Single-speed Driver Unit" in subheading 8714.99.80, HTSUS, as an "other" part of a bicycle. The article is described as a cylindrical piece of metal with a hole at its center and a star-shaped flange. It possesses internal bearings and is attached to the rear wheel hub of a bicycle, where a bicycle chain would be wrapped around it and allow a bicycle power train to be engaged when pedaling forward and coast freely when not pedaled or pedaling backwards. We now also find that the article of NY N116976 is instead properly classified in subheading 8714.93.70, HTSUS, as a "free-wheel sprocket-wheel."

HOLDING:

By application of GRIs 1 and 6, the cassettes of HQ H174522, and the cogs of H161003 and NY N116976, are classified in subheading 8714.93.70, HTSUS, as "free-wheel sprocket-wheels," and free of duty. The classification of the hubs of HQ H174522 is not affected by this action. Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided at *www.usitc.gov*

EFFECT ON OTHER RULINGS:

HQ H174522, dated June 5, 2012, is modified in accordance with this decision. HQ H161003, dated May 13, 2013, and NY N116976, dated August 20, 2010, are revoked.

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

REVOCATION OF THREE RULING LETTERS AND MODIFICATION OF TWO RULING LETTERS, AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF COCONUT WATER

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

ACTION: Notice of revocation of three ruling letters and modification of two ruling letters, and revocation of treatment relating to the tariff classification of coconut water.

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 revoking three ruling letters and modifying two ruling letters concerning the tariff classification of coconut water under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is

revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 51, No. 29, on July 19, 2017. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Tatiana Salnik Matherne, Footwear, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0351.

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) ("Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerged 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 public 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, a notice was published in the *Customs Bulletin*, Vol. 51, No. 29, on July 19, 2017, proposing to revoke three ruling letters and modify two ruling letters pertaining to the tariff classification of coconut water. As stated in the notice, this action will cover New York Ruling Letter (NY) N171621, dated July 8, 2011, NY N188787, dated October 28, 2011, NY 816865, dated December 14, 1995, NY N128316, dated November 5, 2010, and NY N258785, dated November 24, 2014, as well as any rulings on this merchandise which may exist, but have not been specifically identi-

fied. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the five 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 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. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical 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 this notice.

In NY N171621, NY N188787, NY 816865, NY N128316 and NY N258785, CBP classified coconut water products in heading 2202, HTSUS, which provides for "Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavored, and other nonalcoholic beverages, not including fruit or vegetable juices of heading 2009." CBP has reviewed NY N171621, N188787, NY 816865, NY N128316 and NY N258785, and has determined those ruling letters to be in error. It is now CBP's position that the coconut water products at issue in those rulings are properly classified, by operation of GRIs 1 and 6, in heading 2009, HTSUS. The coconut water products at issue in NY N171621, NY 816865, NY N128316 and NY N188787, are classified in subheading 2009.89.60, HTSUS, which provides for "Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter: Juice of any other single fruit or vegetable: Other: Fruit juice: Other." The coconut water products at issue in NY N258785, are classified in subheading 2009.90.40, which provides for "Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter: Mixtures of juices: Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N171621, NY 816865 and NY N128316, modifying NY N258785 and NY N188787, and revoking or modifying any other ruling not specifically identified, to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H284220, set forth as an Attachment to this notice. Addition-

ally, 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: August 22, 2017

IEVA K. O'ROURKE
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H284220
August 22, 2017
CLA-2 OT:RR:CTF:FTM H284220 TSM
CATEGORY: Classification
TARIFF NO.: 2009.89.60; 2009.90.40

MR. JOHN E. STAIB
J. E. S. FORWARDING INC.
30 MONTGOMERY STREET
SUITE 620
JERSEY CITY, NJ 07302

RE: Revocation of NY N171621, NY 816865 and NY N128316; Modification of NY N258785 and NY N188787; The tariff classification of coconut water.

DEAR MR. STAIB:

This is in reference to NY N171621, dated July 8, 2011, concerning the tariff classification of coconut water. This is also in reference to NY N188787, dated October 28, 2011, NY 816865, dated December 14, 1995, NY N128316, dated November 5, 2010 and NY N258785, dated November 24, 2014. In those rulings, U.S. Customs and Border Protection ("CBP") classified the coconut water products under heading 2202, HTSUS, which provides for "Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavored, and other nonalcoholic beverages, not including fruit or vegetable juices of heading 2009." Upon additional review, we have found this classification to be incorrect. For the reasons set forth below we hereby revoke NY N171621, NY 816865 and NY N128316, and modify NY N188787 (coconut water with pulp) and NY N258785 (coconut water with pineapple and coconut water with pomegranate).

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), a notice was published in the *Customs Bulletin*, Volume 51, No. 29, on July 19, 2017, proposing to revoke NY N171621, NY 816865, and NY N128316, modify NY N258785 and NY N188787, and revoke any treatment accorded to substantially identical transactions. No comments were received in response to this notice.

FACTS:

NY N171621, issued to J. E. S. Forwarding Inc. on July 8, 2011, describes the subject merchandise as follows:

> The subject merchandise is 100 percent young coconut water, and coconut water concentrate derived from coconut, separated from any solid materials, filled, weighed and stored in an ultra high temperature chiller prior to being packed into individual cartons. You have stated that the article will be imported frozen or aseptically packed in 20kg, 180kg and 1000kg bags, respectively.

ISSUE:

What is the tariff classification of the coconut water at issue?

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:

2009	Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter
	Juice of any other single fruit or vegetable:
	* * *
2009.89	Other:
	* * *
2009.89.60	Other
	* * *
2009.90	Mixture of juices:
	* * *
2009.90.40	Other
	* * *
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavored, and other nonalcoholic beverages, not including fruit or vegetable juices of heading 2009

In addition, in interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System 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).

EN 20.09 provides, in pertinent parts, the following:

> The fruit and vegetable juices of this heading are generally obtained by mechanically opening or pressing fresh, healthy and ripe fruit or vegetables. This may be done (as in the case of citrus fruits) by means of mechanical "extractors" operating on the same principle as the household lemon-squeezer, or by pressing which may or may not be preceded either by crushing or grinding (for apples in particular) or by treatment with cold or hot water or with steam (e.g., tomatoes, blackcurrants and certain vegetables such as carrots and celery). The juices of this heading also include coconut water.
>
> * * *
>
> Similarly, intermixtures of the juices of fruits or vegetables of the same or different types remain classified in this heading, as do reconstituted juices (i.e., products obtained by the addition, to the concentrated juice, of

a quantity of water not exceeding that contained in similar non-concentrated juices of normal composition).

* * *

Historically, CBP has classified coconut water as "waters ... or other non-alcoholic beverages" of heading 2202, HTSUS. However, we note that fruit and vegetable juices are excluded from the heading by the text of 2202, HTSUS. Therefore, we must first determine whether the coconut water is a fruit juice. A coconut is the fruit, or seed, of a coconut tree. Coconut water is extracted by mechanically opening and draining the coconut. Therefore, we find that coconut water is a fruit juice of heading 2009, HTSUS. This conclusion is supported by the Explanatory Notes to heading 2009, which state that "The juices of this heading also include coconut water."

Therefore, the coconut water products at issue in NY N171621, NY 816865, NY N128316, NY N258785 and NY N188787, are classified in heading 2009, HTSUS, which provides for "Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter." Specifically, we find that the products at issue in NY N171621, NY 816865, and NY N128316, consisting of 100 percent coconut water, and NY N188787 (coconut water with pulp),[1] are classified in subheading 2009.89.60, HTSUS, which provides for "Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter: Juice of any other single fruit or vegetable: Other: Fruit juice: Other." Moreover, we find that the relevant products at issue in NY N258785 (coconut water with pineapple juice and coconut water with pomegranate juice),[2] are classified in subheading 2009.90.40, which provides for "Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter: Mixtures of juices: Other."

HOLDING:

By application of GRIs 1 and 6, we find that the subject merchandise is classified under heading 2009, HTSUS. Specifically, the products at issue in NY N171621, NY 816865, NY N128316 and NY N188787, are classified in subheading 2009.89.60, HTSUS, which provides for "Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter: Juice of any other single fruit or vegetable: Other: Fruit juice: Other." The 2017 column one, general rate of duty is 0.5¢/liter.

Moreover, the products at issue in NY N258785, are classified in subheading 2009.90.40, HTSUS, which provides for "Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added

[1] NY N188787 also addresses tariff classification of another product, referred to as "Product 2." We note that that product is not at issue here.

[2] NY N258785 also addresses Coconut Water with Latte, Coconut Water with Chocolate, and Coconut Water with Mango. We note that those products are not at issue here.

sugar or other sweetening matter: Mixtures of juices: Other." The 2017 column one, general rate of duty is 7.4¢/liter.

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:

[November 5, 2010, are REVOKED. NY N258785, dated November 24, 2014 (coconut water with pineapple juice and coconut water with pomegranate juice), and NY N188787, dated October 28, 2011 (coconut water with pulp), are MODIFIED.

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

Sincerely,

IEVA K. O'ROURKE
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division or ap

PROPOSED REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF PISTON PIN BUSHINGS FROM INDIA

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

ACTION: Notice of proposed revocation of one ruling letter and revocation of treatment relating to the tariff classification of piston pin bushings from India.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke one ruling letter concerning the tariff classification of pistons pin bushings from India under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before December 1, 2017.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Dwayne Rawlings, Electronics, Machinery, Automotive, and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0092.

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) ("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 public 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, this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of piston pin bushings from India. Although in this notice, CBP is specifically referring to NY 864550, dated July 2, 1991 (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 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 proposing 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 NY 864550, CBP classified piston pin bushings from India in heading 8409, HTSUS, specifically in subheading 8409.99.91, HTSUS, which provides for ""Parts suitable for use solely or principally with the engines of heading 8407 or 8408: Other: Other: Other: For vehicles of subheading 8701.20, or heading 8702, 8703 or 8704." CBP has reviewed NY 864550 and has determined the ruling letter to be in error. It is now CBP's position that the piston pin bushings are properly classified, by operation of GRI 1, in heading 8483, HTSUS, specifically in subheading 8483.30.80, HTSUS, which provides for "Transmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings ...: Bearing housings; plain shaft bearings; Other."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY 864550 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H287802, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing 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: August 25, 2017

GREG CONNOR
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

July 2, 1991
CLA-2–84:S:N:N1:101–864550
CATEGORY: Classification
TARIFF NO.: 8409.99.9190

MR. STEVE HOROWITZ
VICTOR HAHN CHB
8816 SEPULVEDA BLVD.SUITE 107
LOS ANGELES, CA 90045

RE: The tariff classification of piston pin bushings from India

DEAR MR. HOROWITZ:

In your letter dated June 10, 1991, on behalf of Dandekar International, Huntington Beach, CA, you requested a tariff classification ruling.

The imported articles are described as piston pin bushings that are designed for installation in automotive diesel engines. A piston pin, also called a wrist pin, is the cylindrical or tubular metal piece that attaches the piston to the connecting rod. The bushing for the piston pin is a sleeve placed in a bore to serve as a bearing surface. You state that these piston pin bushings are imported in a condition ready to be installed on the piston end of a connecting rod. No other fabrication or machining is needed.

The applicable subheading for the piston pin bushings, of the type designed for installation in automotive diesel engines, will be 8409.99.9190, Harmonized Tariff Schedule of the United States (HTS), which provides for other parts of engines, for other engines (including diesel and semi-diesel), for vehicles of subheading 8701.20, or headings 8702, 8703 or 8704. The rate of duty will be 3.7 percent ad valorem Articles classifiable under subheading 8409.99.9190, HTS, which are products of India are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations.

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

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

Sincerely,

JEAN F. MAGUIRE
Area Director
New York Seaport

[ATTACHMENT B]

HQ H287802
CLA-2 OT:RR:CTF:TCM H287802 DSR
CATEGORY: Classification
TARIFF NO.: 8483.30.80

MR. STEVE HOROWITZ
VICTOR HAHN CHB
8816 SEPULVEDA BLVD., SUITE 107
LOS ANGELES, CA 90045

RE: Revocation of NY 864550; tariff classification of piston pin bushings from India

DEAR MR. HOROWITZ:

In New York Ruling Letter ("NY") 864550 (July 2, 1991), U.S. Customs and Border Protection ("CBP") classified certain piston pin bushings from India in subheading 8409.99.91, Harmonized Tariff Schedule of the United States ("HTSUS"), which provides for parts for use solely or principally with the engines of vehicles of subheading 8701.20, or heading 8702, 8703 or 8704. Since NY 864550 was issued, CBP has reviewed the ruling and determined that the classification provided for the piston pin bushings is incorrect and, therefore, the ruling must be revoked for the reasons set forth in this ruling.

FACTS:

The imported articles are described as piston pin bushings that are designed for installation in automotive diesel engines. A piston pin, also called a wrist pin, is the cylindrical or tubular metal piece that attaches the piston to the connecting rod. The bushing for the piston pin is a sleeve placed in a bore to serve as a bearing surface. The piston pin bushings are imported in a condition ready to be installed on the piston end of a connecting rod. No other fabrication or machining is needed.

ISSUE:

Whether the articles are classified under heading 8409, HTSUS, as parts suitable for use solely or principally with engines of headings 8407 or 8408, or as plain shaft bearings under heading 8483, 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. In addition, in interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System 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 HTSUS provisions under consideration in this ruling are as follows:

8409	Parts suitable for use solely or principally with the engines of heading 8407 or 8408:
	Other:
8409.99	Other:
	Other:
8409.99.91	For vehicles of subheading 8701.20, or heading 8702, 8703 or 8704.
8483	Transmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints); parts thereof:
8483.30	Bearing housings; plain shaft bearings:
8483.30.80	Other.

Note 2 to Section XVI states in relevant part that, subject to Note 1 to Sect XVI, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines are classified in their respective headings if they are parts of goods included in any headings of Chapter 84 or 85 (other than heading 8409). Also, EN 2 to Section XVI states that, in general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus. However, the above rules do not apply to parts which in themselves constitute an article covered by a heading of Section XVI (other than headings 84.87 and 85.48). Such articles are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine. That exception applies in particular to, among other things, plain shaft bearings, which are to be classified in heading 8483, HTSUS. Therefore, if the subject pin bushings are considered to be plain shaft bearings, they are precluded from heading 8409, HTSUS, by operation of Note 2 to Section XVI and supported by EN 2 to Section XVI, *supra*.

The term "bearing" is not defined in the HTSUS. When a tariff term is not defined by the HTSUS or its legislative history, "the term's correct meaning is its common meaning." *Mita Copystar Am. v. United States*, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term used in commerce is presumed to be the same as its commercial meaning. *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed. Cir. 1989). To ascertain the common meaning of a term, CBP may consult "dictionaries, scientific authorities, and other reliable information sources" and "lexicographic and other materials." *C.J. Tower & Sons v. United States*, 673 F.2d 1268, 1271 (C.C.P.A. 1982); Simod, 872 F.2d at 1576. The term "bearing" is defined as "[a]n object, surface, or point that supports: supporting power: point of support: ... a machine part in which a journal, gudgeon, pivot, pin or other part revolves, oscillates, or slides – *see* ball bearing, needle bearing, roller bearing, thrust bearing." *Merriam Webster's Third New International Dictionary*, p. 192 (2003) (*cited* in HQ H127797, dated November 29, 2011).

We recognize that the term "bushing" is an industry term and is used in many capacities to include a plain shaft bearing. In NY 864550, the subject piston pin bushing is placed into a bore to keep a piston pin in place by

serving as a bearing surface. That function is akin to that of a plain shaft bearing provided for under heading 8483 in that the pin rotates against the inside of the bushing for anti-friction and anti-wear purposes.

Therefore, even though the subject article is used in the engine of a motor vehicle, application of Note 2(a) to Section XVI, HTSUS compels a finding that the articles of NY 864550 are instead properly classified in subheading 8483.30.80, which provides for other plain shaft bearings without a housing. *See* NY E82314, dated June 10, 1999 (in which a bushing used in a linear hydraulic cylinder for the purpose of aligning a sliding piston rod within a cylinder housing is classified as a plain shaft bearing of heading 8483, HTSUS); *see also* NY J85381, dated June 20, 2003.

HOLDING:

By application of GRI 1 (Note 2(a) to Section XVI) and GRI 6, the piston pin bushings of NY 864550 are classified in subheading 8483.30.80, which provides for other plain shaft bearings without a housing, dutiable at 4.5% *ad valorem*. Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY 864550, dated July 2, 1991, is revoked in accordance with this decision.

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

PROPOSED MODIFICATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF WOODEN FURNITURE

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

ACTION: Notice of proposed modification of one ruling letter, and revocation of treatment relating to the tariff classification of wooden furniture.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to modify New York Ruling Letter (NY) N104737, dated May 20, 2013, concerning the tariff classification of wooden furniture under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to

substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before December 1, 2017.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–0024.

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) ("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 public 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, this notice advises interested parties that CBP is proposing to modify one ruling letter pertaining to the tariff classification of wooden furniture. Although in

this notice, CBP is specifically referring to New York Ruling Letter ("NY") N104737, dated May 20, 2013 (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 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 proposing 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 NY N104737, CBP classified three wooden chests of drawers in heading 9403, HTSUS, specifically in subheading 9403.50.90, HTSUS, as wooden furniture of a kind used in the bedroom. CBP has reviewed NY N104737 and has determined the ruling letter to be in error with respect to one item, identified as item CM903. It is now CBP's position that item CM903 is properly classified, by operation of GRIs 1 and 6, in in subheading 9403.60.80, HTSUS, as other wooden furniture.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to modify NY N104737 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H245888, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing 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: August 29, 2017

ALLYSON MATTANAH
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N104737

May 20, 2010
CLA-2–94:OT:RR:NC:N4:433
CATEGORY: Classification
TARIFF NO.: 9403.50.9080

JENNIFER HO
AJH ELITE CUSTOMS BROKERAGE
24328 SOUTH VERMONT AVENUE
SUITE 230
HARBOR CITY, CA 90710

RE: The tariff classification of wooden dressers from China.

DEAR MS. HO:

In your letter dated May 5, 2010, on behalf of Old South Lamps & Accents, you requested a tariff classification ruling.

Photographs have been submitted for three pieces of wooden furniture. Item number SW1001 is a three drawer accent chest made of MDF board with wood veneer and metal hardware. This item measures 32 inches high by 34 inches wide and 18 inches deep. Item number SW1002 is a six drawer narrow console made of MDF board with wood veneer and metal hardware. This item measures 37.5 inches high by 41 inches wide and 11 inches deep. Item number CM903 is a half moon accent table made of MDF board with wood veneer and metal hardware. This item measures 35.5 inches high by 38 inches wide and 17 inches deep. The drawers on all three pieces are sufficiently large to accommodate storage of clothing and accessories.

The applicable subheading for the three chests will be 9403.50.9080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Other furniture and parts thereof: Wooden furniture of a kind used in the bedroom: Other: Other, Other." The rate of duty will be free.

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 merchandise in question may be subject to antidumping duties or countervailing duties. A list of AD/CVD proceedings at the Department of Commerce (DOC) and their product coverage can be obtained from the DOC website at: http://ia.ita.doc.gov, or you may write to them at the U.S. Department of Commerce, International Trade Administration, Office of Antidumping Compliance, 14th Street and Constitution Avenue, N.W. Washington, DC 20230. Written decisions regarding the scope of AD/CVD orders are issued by the Import Administration in the Department of Commerce and are separate from tariff classification and origin rulings issued by Customs and Border Protection.

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 Neil H. Levy at (646) 733–3036.

Sincerely,

ROBERT B. SWIERUPSKI
Director
National Commodity Specialist Division

[ATTACHMENT B]

HQ H245888
CLA-2 OT:RR:CTF:CPM H245888 CkG
CATEGORY: Classification
TARIFF NO.: 9403.50.90, 9403.60.80

PATRICIA SANDERS
CUSTOMS BROKERAGES, INC.
800 ATLANTA SOUTH PARKWAY, STE. 150
COLLEGE PARK, GA 30349

Re: Modification of NY N104737; classification of wooden furniture

DEAR MS. SANDERS:

This is in response to your request of May 20, 2013, for the reconsideration[1] of New York Ruling Letter (NY) *N104737*, dated May 20, 2010, classifying three pieces of wooden furniture in subheading 9403.50, HTSUS, as wooden furniture of a kind used in the bedroom. For the reasons set forth below, we have determined that the classification of the CM903 chest in subheading 9403.50.90, HTSUS, was incorrect.

FACTS:

In NY *N104737*, the subject merchandise was described as follows:

> Photographs have been submitted for three pieces of wooden furniture. Item number SW1001 is a three drawer accent chest made of MDF board with wood veneer and metal hardware. This item measures 32 inches high by 34 inches wide and 18 inches deep. Item number SW1002 is a six drawer narrow console made of MDF board with wood veneer and metal hardware. This item measures 37.5 inches high by 41 inches wide and 11 inches deep. Item number CM903 is a half moon accent table made of MDF board with wood veneer and metal hardware. This item measures 35.5 inches high by 38 inches wide and 17 inches deep. The drawers on all three pieces are sufficiently large to accommodate storage of clothing and accessories.

You further submit scanned copies of catalog pages for the importer, Old South Lamps and Accents, but nothing directly featuring the goods at issue.

ISSUE:

Whether the instant furniture pieces are classified in subheading 9403.50, HTSUS, as wooden furniture of a kind used the bedroom, or in subheading 9403.60, HTSUS, as other wooden furniture.

LAW AND ANALYSIS:

Merchandise imported into the United States is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context, which requires otherwise, by the Additional U.S. Rules of Interpretation. GRI 1 requires that classification be determined first according to the

[1] We note that the CF 19 provided in your submission does not appear to have been filed with a port, and that in any case a Protest is not the appropriate vehicle for a request for reconsideration of a CBP ruling; thus, we are treating your "protest" as a request for the revocation of NY N104737.

terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in their appropriate order.

According to GRI 6, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings.

The 2017 HTSUS provisions under consideration are as follows:

9403:	Other furniture and parts thereof:
9403.30:	Wooden furniture of a kind used in offices:
9403.40:	Wooden furniture of a kind used in the kitchen:
9403.50:	Wooden furniture of a kind used in the bedroom:
9403.60:	Other wooden furniture:

* * * *

Note 2 to Chapter 94 provides as follows:

2. The articles (other than parts) referred to in headings 9401 to 9403 are to be classified in those headings only if they are designed for placing on the floor or ground.

The following are, however, to be classified in the above-mentioned headings even if they are designed to be hung, to be fixed to the wall or to stand one on the other.

(a) Cupboards, bookcases, other shelved furniture (including single shelves presented with supports for fixing them to the wall) and unit furniture;

(b) Seats and beds.

* * * *

Additional U.S. Rule of Interpretation 1(a), HTSUS, provides that:

1. In the absence of special language or context which otherwise requires:

(a) a tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use.

* * * *

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

The EN to heading 9403 provides, in pertinent part:

This heading covers furniture and parts thereof, not covered by the previous headings. It includes furniture for general use (e.g., cupboards, show-cases, tables, telephone stands, writing-desks, escritoires, bookcases, and other shelved furniture (including single shelves presented with supports for fixing them to the wall), etc.), and also furniture for special uses.

The heading includes furnitures for:

(1) Private dwellings, hotels, etc., such as: cabinets, linen chests, bread chests, log chests; chests of drawers, tallboys; pedestals, plant stands; dressing-tables; pedestal tables; wardrobes, linen presses; hall stands, umbrella stands; side-boards, dressers, cupboards; food-safes; bedside tables; beds (including wardrobe beds, camp-beds, folding beds, cots, etc.); needlework tables; stools and foot-stools (whether or not rocking) designed to rest the feet, fire screens; draught-screens; pedestal ashtrays; music cabinets, music stands or desks; play-pens; serving trolleys (whether or not fitted with a hot plate).

Headings 9401 to 9403, HTSUS, provide for furniture. Note 2 to Chapter 94 describes the merchandise covered by the term "furniture" as "articles...designed for placing on the floor or ground." There is no dispute that the instant wooden chests are classified in heading 9403, HTSUS, as furniture. Under heading 9403, HTSUS, there are four separate subheadings for wooden furniture. Subheadings 9403.30, HTSUS, 9403.40, HTSUS, and 9403.50, HTSUS, each provide for wooden furniture of a kind used in offices, kitchens and bedrooms, respectively. Subheading 9403.60, HTSUS, is a residual provision for other wooden furniture. If the instant items are not classifiable in subheadings 9403.30 through 9403.50, HTSUS, they will be classified in subheading 9403.60, HTSUS.

Subheadings 9403.30, HTSUS, 9403.40, HTSUS, and 9403.50, HTSUS, each use the term "of a kind." As such, these subheadings are principal use provisions. Under Additional U.S. Rule of Interpretation 1(a) (AUSR 1(a)), tariff classification under a principal use provision must be determined in accordance with the use in the United States of that class or kind to which the imported goods belong. The rule "call[s] for a determination as to the group of goods that are commercially fungible with the imported goods." *BenQ Am. Corp. v. United States*, 646 F.3d 1371, 1379 (Fed. Cir. May 27, 2011), *Primal Lite, Inc. v. United States*, 182 F.3d 1362 (Fed. Cir. July 16, 1999). Accordingly, under a principal use provision, it is not the *actual* use of the product which determines the classification, but rather the *principal* use of the *class or kind* of goods to which the merchandise belongs.

Thus, in order to be classified as wooden furniture of a kind used in offices, kitchens or bedrooms, the instant articles must belong to the same kind or class of goods as such bedroom furniture. In *United States v. Carborundum Co*., 536 F.2d 373, 377 (CCPA 1976), the U.S. Court of Customs and Patent Appeals stated that in order to determine whether an article is included in a particular class or kind of merchandise, the court must consider a variety of factors, including: (1) the general physical characteristics of the merchandise; (2) the channels, class or kind of trade in which the merchandise moves (where the merchandise is sold); (3) the expectation of the ultimate purchasers; (4) the environment of the sale (i.e., accompanying accessories and marketing); (5) usage, if any, in the same manner as merchandise which defines the class; (6) the economic practicality of so using the import; and (7) the recognition in the trade of this use. *Id*. While these factors were developed under the Tariff Schedule of the United States (predecessor to the HTSUS), the courts have also applied them under the HTSUS. *See, e.g. Minnetonka v United States*, 110 F. Supp. 2d 1020, 1027 (Ct. Int'l Trade 2000); *see also Aromont USA, Inc. v. United States*, 671 F.3d 1310 (Fed. Cir. 2012), *Essex Manufacturing, Inc. v. United States*, 30 C.I.T. 1 (2006).

Neither the HTSUS nor the ENs provide a description or examples of furniture of a kind used in the bedroom that would give guidance to determine which furniture products are considered of a class or kind used in the bedroom. In order to obtain some guidance on what kind of furniture would be used in the bedroom, we have reviewed prior CBP rulings as well as several web sites that sell furniture promoted and advertised for use in a bedroom. *See* the following web links where furniture is sold: *http://www.pier1.com/dresser-armoire#nav=left; https://www.walmart.com/browse/bedroom-furniture/dressers/4044_103150_102547_91839; https://www.wayfair.com/furniture/sb0/dressers-c46091.html; http://www.ikea.com/us/en/catalog/categories/departments/bedroom/10451/; https://www.westelm.com/shop/furniture/dressers-nightstands/dressers/?cm_type=lnav.*

As illustrated in the links above, chests of drawers and dressers are a universally recognized category of bedroom furniture. The specific dimensions, finish, number of drawers, and other characteristics of such dressers vary widely, but they all share the common characteristic of being suitable for the storage of clothes and linens in the bedroom. The design of the SW1001 is typical of similar 3-drawer chests, which similarly feature three full size, stacked drawers and are typically made of wood or MDF. Larger bedroom dressers of four or more drawers, such as the SW1002, typically feature two or more smaller drawers at the top of the dresser for smaller items such as undergarments or socks, with larger drawers underneath for outer clothing. Moreover, the pictures submitted of the SW1001 and SW1002 are virtually identical to the numerous examples of bedroom chests and dressers sold in these and other furniture outlets. The SW1001 and SW1002 share the same classic and common style as pieces sold in furniture outlets such as IKEA, Wayfair, Pier One, and West Elm, and in the bedroom furniture departments of retailers such as Walmart and Target.[2] At 32" H x 34" W x 18" D and 37.4" H x 41" W x 11" D, the dimensions of the SW1001[3] and SW1002[4] are also well within the range of sizes of chests of drawers used for bedroom storage.

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[2] See e.g., *http://www.ikea.com/us/en/catalog/categories/departments/bedroom/10451/; https://www.target.com/c/dressers-bedroom-furniture/-/N-5xtnd; https://www.walmart.com/browse/bedroom-furniture/dressers/4044_103150_102547_91839; https://www.wayfair.com/furniture/sb0/dressers-c46091.html; http://www.pier1.com/dresser-armoire?nav=tile&icid=cat_furniture-subcat_bedroom_furniture-subcat_tile_dresser_armoire; https://www.westelm.com/shop/furniture/dressers-nightstands/dressers/?cm_type=lnav*

[3] To list but a fraction of 3-drawer chests of a similar size and style to the SW1001: the Malm 3-drawer chest from IKEA (30 ¾" H, Width: 31 1/2" W, 18 7/8" D), *http://www.ikea.com/us/en/catalog/products/80360461/; the Brusali 3-drawer chest from IKEA http://www.ikea.com/us/en/catalog/products/50360405/* (36 5/8" H, 31 ½" W, 18 7/8 "D) *http://www.ikea.com/us/en/catalog/products/00360399/*; the DaVinci Kalani 3 Drawer Dresser from Target (35.37" H x 32.25" W x 21..5" D), at *https://www.target.com/p/davinci-kalani-3-drawer-dresser/-/A-52571125#lnk=newtab*; the Graco Kendall 3 Drawer Chest from Target (32.95" H x 33.74" W x 18" D), at *https://www.target.com/p/graco-174-kendall-3-drawer-chest/-/A-51179707#lnk=newtab*; from Wayfair.com, the Aster 3 Drawer Dresser (30.5" H x 36" W x 17" D), at *https://www.wayfair.com/Red-Barrel-Studio-Aster-3-Drawer-Dresser-RDBL3685.html*, and the Susan 3 Drawer Chest (33" H x 35.25" W x 18.5" D), at *https://www.wayfair.com/Viv-Rae-Susan-3-Drawer-Chest-VVRO5316.html*.

[4] Dressers of a size and style similar to the SW1002 include, for example: from Wayfair.com, the Breakwater Bay Roselle dresser (39.625" H x 44.625" W x 17.875" D), at *https://www.wayfair.com/Breakwater-Bay-Roselle-8-Drawer-Dresser-Chest-BRWT2387.html*; the

Hence, the dimensions, overall appearance and functionality of the SW1001 and SW1002 are well within the range of what is commonly marketed, sold and used as bedroom furniture. The depth and size of the drawers make them particularly suitable for the storage of clothing. They could also conceivably be used for the storage of other items, of course—nothing in the design of these chests mandates their use for bedroom storage—but by far the most common and typical use of this kind of merchandise is for the storage of clothing in the bedroom. They are, furthermore, clearly distinct from console tables and cabinets used in the living room for general storage; similarly-sized chests used for storage and/or display of media in the living room, for example, have an open shelf at the top for easy access to set-top boxes and cables.[5]

However, we do agree that the half-moon design of the 3-drawer CM903 console, while not unsuitable for a bedroom, is an unusual design for bedroom furniture. It is somewhat less practical as a utilitarian storage solution, as the curvature of the chest reduces the interior space. Merchandise of a comparable size and style appears to be marketed for general storage or as accent furniture.[6] As the CM903 does not clearly resemble typical bedroom furniture, and similar merchandise is sold for general home storage, a principal use in kitchens, offices or bedrooms cannot be established for this item.

You claim that the instant items are not actually used in the bedroom; however, you submit no evidence to support this claim with respect to the specific items at issue. The catalog pages from Old South Lamps and Accents feature other, apparently unrelated, products, and no evidence has been presented that Old South exclusively sells furniture for other than bedroom use. Based on our observations of similar merchandise from multiple vendors, items sharing the essential characteristics—style, size, material, and finish--to the SW1001 and SW1002 are marketed and used for the storage of clothing in the bedroom. We further note that the physical dimensions of the SW1001 and SW1002 are very much in line with the typical dimensions of dressers and chests of drawers used for bedroom storage. We therefore find that the SW1001 and SW1002 are of a class or kind with bedroom furniture, and were properly classified in subheading 9403.50, HTSUS, as wooden furniture of a kind used in the bedroom. However, furniture of the general style, size, and design of the CM903 is marketed and used for general storage

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Burbury Country Lodge 4 Drawer Chest (36" H x 39" W x 13" D), at *https://www.wayfair.com/Loon-Peak-Burbury-Country-Lodge-4-Drawer-Chest-LNPK8225.html*; the Ziggy Accent Chest (34" H x 40" W x 14" D), at *https://www.wayfair.com/House-of-Hampton-Ziggy-Accent-Chest-HOHN7396.html*; from WalMart, the Crestview Hampton Chest (36" H, 42" W, 12"D), at *https://www.walmart.com/ip/Crestview-Collection-Hampton-6-Drawer-Chest/38760540*;

[5] *See e.g., https://www.wayfair.com/Altra-Furniture-Oakridge-3-Drawer-Media-Chest-HQZ1717.html, https://www.wayfair.com/Red-Barrel-Studio-Cannonball-Way-3-Drawer-Media-Chest-RDBS1258.html*; and/or larger compartments with doors *http://www.pier1.com/heera-brown-mango-wood-cabinet/2589224.html?cgid=decorative-cabinets#nav=left&start=1*
http://www.ikea.com/us/en/catalog/products/80300660/.

[6] See e.g., the Cantor Demilune Accent Chest, from Birch Lane (*https://www.birchlane.com/Cantor-Demilune-Accent-Chest-BL15443.html?PiID%5B%5D=17599239&source=hotdeals; from Wayfair, the* Maddison Demilune Hall 4 Drawer Accent Chest (32" H x 40" W x 19" D), at *https://www.wayfair.com/Canora-Grey-Maddison-Demilune-Hall-4-Drawer-Accent-Chest-CAGY1519.html*; or the Quintin 4 Drawer Chest(35" H x 36" W x 18" D), at *https://www.wayfair.com/Stein-World-Quintin-4-Drawer-Chest-SM6768.html*.

or as accent pieces for entryways or living rooms. Accordingly, we agree that the CM903 is not furniture of a kind used in the bedroom, and is therefore classified in subheading 9405.60, HTSUS, as other wooden furniture.

HOLDING:

By application of GRIs 1 and 6, the SW1001 and SW1002 remain classified in heading 9403, HTSUS, specifically subheading 9403.50.90, HTSUS, which provides for "Other furniture and parts thereof: Wooden furniture of a kind used in the bedroom: Other: Other." The 2017, column one, general rate of duty is Free.

The CM903 is classified in heading 9403, HTSUS, specifically subheading 9403.60.80, HTSUS, which provides for "Other furniture and parts thereof: Other wooden furniture: Other." The 2017, column one, general rate of duty is Free.

The merchandise in question may be subject to antidumping duties or countervailing duties. We note that the Commerce Department is not necessarily bound by a country of origin or classification determination issued by CBP, with regard to the scope of antidumping orders or countervailing duties. Written decisions regarding the scope of AD/CVD orders are issued by the Department of Commerce and are separate from tariff classification and origin rulings issued by Customs and Border Protection. You can contact them at http://www.trade.gov/ia/ (click on "Contact Us"). For your information, you can view a list of current AD/CVD cases at the United States International Trade Commission website at http://www.usitc.gov ("Antidumping and countervailing duty investigations"), and you can search AD/CVD deposit and liquidation messages using ACE, the system of record for AD/CVD messages, or the AD/CVD Search tool at http://addcvd.cbp.gov/index.asp?ac=home.

EFFECT ON OTHER RULINGS:

NY *N104737*, dated May 20, 2010, is hereby modified with respect to the classification of the CM903 accent chest.

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

PROPOSED REVOCATION OF A RULING LETTER AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF A FORK LIFT LOAD ROLLER

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

ACTION: Notice of proposed revocation of a ruling letter and revocation of treatment relating to the tariff classification of Fork Lift Load Roller.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke a ruling letter concerning tariff classification of a Fork Lift Load Roller under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before December 1, 2017.

ADDRESS: Written comments are to be addressed to the U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Anthony L. Shurn, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0351.

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) ("Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerged 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 public 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, this notice advises interested parties that CBP is proposing to revoke a ruling letter concerning tariff classification of a Fork Lift Load Roller. Although in this notice, CBP is specifically referring to Headquarters Ruling Letter (HQ) 088457, dated January 31, 1991 (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 five 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 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 proposing 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 HQ 088457, CBP classified the Fork Lift Load Roller at issue in heading 8431, HTSUS, specifically in subheading 8431.20.00, HTSUS, which provides for "Parts suitable for use solely or principally with the machinery of headings 8425 to 8430: Of machinery of heading 8427..." CBP has reviewed HQ 088457, and has determined the ruling letter to be in error. It is now CBP's position that the Fork Lift Load Roller is properly classified, by operation of GRI 1, in heading 8482, HTSUS. Specifically, the Fork Lift Load Roller is properly classified under subheading 8482.10.50, HTSUS, which provides for "Ball or roller bearings, and parts thereof: Ball bearings: Other..."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke HQ 088457, and modify or revoke any other ruling not specifically identified, to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H289349, set forth as Attachment "B" to this

notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing 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: August 25, 2017

GREG CONNOR
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

January 31, 1991
CLA-2 CO:R:C:G 088457 CMS
CATEGORY: Classification
TARIFF NO.: 8431.20.00 8482.10.50

MR. MICHAEL V. CHANEY
A.W. FENTON COMPANY, INC.
1452 DONALDSON ROAD
ERLANGER, KENTUCKY 41018–1025

RE: Load Rollers For Fork Lift Trucks; Wheels; Ball And Roller Bearings; Mast Guide Roller; NY Ruling 842150 (June 19, 1989) Revoked

DEAR MR. CHANEY:

NY Ruling 842150 (June 19, 1989), was issued in response to your request dated June 5, 1989, on behalf of Scott Bearings, Inc., for a classification ruling on certain fork lift mast guide rollers. For the following reasons, NY Ruling 842150 was revoked by HQ Ruling 087775 (January 17, 1991).

FACTS:

The merchandise consists of certain fork lift load rollers described as mast guide rollers. The rollers are used as tires on which fork lift masts roll. The rollers are specially curved to match each type and design of fork lift mast.

ISSUE:

Is the merchandise classified in Heading 8431 as parts suitable for use solely or principally with fork lift trucks, or in Heading 8482 as ball or roller bearings?

LAW AND ANALYSIS:

Heading 8431 in pertinent part describes parts suitable for use solely or principally with machinery of Heading 8427. Heading 8427 specifically describes fork-lift trucks and other works trucks fitted with lifting or handling equipment.

Heading 8482 describes ball or roller bearings and parts thereof.

Headings 8431 and 8482 are Section XVI headings. Section XVI Note 2(a) provides that parts which are goods included in any of the headings of Chapters 84 and 85 (other than headings 8485 and 8548) are in all cases to be classified in their respective headings. Thus, if the load rollers are bearings included in Heading 8482, they cannot be classified as parts of fork lifts in Heading 8431. If the load rollers are not bearings included in Heading 8482, they would be classified in Heading 8431 pursuant to Section XVI Note 2(b), provided they are suitable for use solely or principally with the machinery referred to in Heading 8431.

The load rollers function as wheels which have an outer section that rotates around a fixed inner section, and a reinforced tire designed to roll on certain surfaces and withstand impact.

Wheels or rollers of this type are not described by Heading 8482. The Explanatory Notes to Heading 8482, p. 1325, provide in part that:

The heading does not cover machinery parts incorporating ball, roller or needle roller bearings; these are classified in their own appropriate headings, e.g.:

* * *

(b) Bicycle hubs (heading 87.14).

The Explanatory Notes to Heading 8714, p. 1438, provide that bicycle wheels and hubs are classified in Heading 8714 as parts of bicycles (and thus not as bearings in Heading 8482). Further, the Explanatory Notes to Heading 8431, p. 1207, provide in part that the heading covers "rollers...for conveyors".

The Explanatory Notes to Heading 8482, p. 1324, provide in part that "[n]ormally, bearings consist of two concentric rings (races) enclosing the balls or rollers, and a cage which keeps them in place and ensures that their spacing remains constant." The Notes also provide at p. 1324 that Heading 8482 bearings "...are generally fitted between the bearing housing and the shaft or axle...".

These Explanatory Notes provisions are couched in terms of "[n]ormally" and "generally", which are illustrative, not restrictive (e.g., slide mechanisms with bearing balls do not exactly meet this description, but are specifically described by the Explanatory Notes as ball bearings).

Nevertheless, the load rollers under consideration are not similar to the Explanatory Note exemplars for ball or roller bearings, and cannot be described merely as bearings. In addition to the inner and outer rings, the rollers have a wider, reinforced steel tire section fitted to or integrally extending from the outer ring. The steel tire section is not incidental to the function of the rollers. The tire is the only surface which contacts the fork lift mast sections which move along the rollers, or against which the rollers move. Without the wider, reinforced steel tire, the inner and outer ring sections could not withstand the impact to which they are subjected in the application for which they are designed. The load rollers perform the anti-friction and support functions of complete wheels and similar rollers, not the functions of mere bearings.

The load rollers under consideration are not goods included in Heading 8482. The load rollers are suitable for use principally with fork lift trucks. They are classified pursuant to Section XVI Note 2(b), as parts of fork lift trucks, in 8431.20.00, HTSUSA.

NY Ruling 841216 (June 8, 1989) correctly held that fork lift load rollers were classified in 8431.20.00, HTSUSA. Conversely, NY Ruling 842150 (June 19, 1989) incorrectly held that fork lift load rollers described as mast guide rollers were classified as radial ball bearings in 8482.10.50, HTSUSA.

HOLDING:

The load rollers are classified as parts suitable for use solely or principally with the machinery of heading 8527, particularly fork lift trucks, in 8431.20.00, HTSUSA.

This office recognizes that pending transactions may be adversely affected by the revocation of NY Ruling 842150 (June 19, 1989). Should this situation arise, you may notify this office and apply for temporary relief from the binding effects of this ruling pursuant to Customs Regulation 177.9(d)(3), 19 C.F.R. 177.9(d)(3).

Sincerely,

JOHN DURANT,
Director
Commercial Rulings Division

[ATTACHMENT B]

HQ H289349
CLA-2 OT:RR:CTF:TCM H289349 ALS
CATEGORY: Classification
TARIFF NO.: 8482.10.50

MR. MICHAEL V. CHANEY
A.W. FENTON COMPANY, INC.
1452 DONALDSON ROAD
ERLANGER, KENTUCKY 41018–1025

RE: Revocation of CBP Ruling HQ 088457 (January 31, 1991); Tariff classification of Fork Lift Load Rollers a/k/a Mast Guide Rollers

DEAR MR. CHANEY:

This letter is to inform you that we have reconsidered and revoked the above-referenced ruling. The ruling was in response to a request for such that you filed on behalf of Scott Bearings, Inc. The ruling and this reconsideration address the legal tariff classification of Fork Lift Load Rollers, also referred to as Mast Guide Rollers.

FACTS:

The Fork Lift Load Roller consists of an inner metal ring that is surrounded by round metal balls that are in turn surrounded by an outer metal ring. The complete Load Roller is shaped like a round disc with a hole in the center, somewhat resembling a donut. The metal balls are sealed within the inner and outer rings and are not visible when the Load Roller is completely assembled. The outer ring comes into direct contact with and engages the fork lift mast channels. As is noted in HQ 088457, "[t]he rollers are used as tires on which fork lift masts roll."

ISSUE:

Is the Fork Lift Load Roller, as described above, properly classified under heading 8431, HTSUS, which provides for "Parts suitable for use solely or principally with the machinery of headings 8425 to 8430", or heading 8482, HTSUS, which provides for "Ball or roller bearings, and parts thereof"?

LAW AND ANALYSIS:

Classification under the HTSUS is determined in accordance with the General Rules of Interpretation ("GRI") and, in the absence of special language or context which otherwise requires, by the Additional U.S. Rules of Interpretation ("ARI"). GRI 1 provides that the classification of goods shall be "determined according to the terms of the headings 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, GRIs 2 through 6 may be applied in order.

The following headings and subheadings of the HTSUS are under consideration in this case:

8431	Parts suitable for use solely or principally with the machinery of headings 8425 to 8430:
8431.20.00	Of machinery of heading 8427...

* * *

8482	Ball or roller bearings, and parts thereof:
8482.10	Ball bearings:
8482.10.50	Other...

* * * * *

Note 2(a) to Section XVI, HTSUS, under which headings 8431 and 8482 fall, provides the following:

> 2. Subject to note 1 to this section, note 1 to chapter 84 and to note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:
>
> (a) Parts which are goods included in any of the headings of chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

Thus, in accordance with Note 2(a), if the subject merchandise is, as a part of a fork lift truck, included in heading 8482, then it is excluded from being classified under heading 8431 as a part of the fork lift assembly.

CBP stated the following in HQ 960291 (July 31, 1997):

> The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding on the contracting parties, and therefore not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).
>
> Relevant ENs at p.1433 [of the WCO Explanatory Notes] state that heading 84.82 covers all ball, roller or needle roller type bearings. We note the merchandise under protest is described as roller assemblies and thrust rollers, yet they were classified in liquidation as ball bearings. The ENs state the function of bearings of heading 84.82 is to reduce friction. They are generally fitted between the bearing housing and a shaft or axle and are designed to give radial support, thrust support, or both. Ball bearings include those with a steel outer ring locked with a brass inner ring in which are enclosed balls in single or double rows; restricted travel type, of steel, comprising a grooved cylinder, a ball cage, and housing; and, the free-traveling type, of steel, comprising a segment, a casing enclosing the bearing balls, and a guide rail with a groove of triangular section. We note that for bearings to perform their function of reducing friction, they must have flanges or other design features that permit them to attach to the machine with which they will be used.
>
> Ball or roller bearings meeting this EN description which are identifiable parts of machines or other apparatus of Chapters 84 or 85 are provided for in heading 8482, under the authority of Section XVI, Note 2(a), HTSUS. Other parts suitable for use solely or principally with a machine or apparatus of those chapters are classifiable with that machine

or apparatus, under the authority of Section XVI, Note 2(b), HTSUS. It is apparent from the Customs Form 6445 that local Customs officials determined that the roller assemblies and thrust rollers under protest conform to the description in the ENs and are goods of heading 8482.

Upon reconsideration of HQ 088457, we find HQ 960291 to be wholly applicable to the subject Fork Lift Load Roller. Likewise, we conclude that, with the Fork Lift Load Roller of HQ 088457 being substantially similar to the articles of HQ 960291, HQ 088457 is therefore in error.

Given the foregoing, we conclude that the Fork Lift Load Roller is a roller bearing that is properly classified under heading 8482, HTSUS. Specifically, the Fork Lift Load Roller is properly classified under subheading 8482.10.50, HTSUS, which provides for "Ball or roller bearings, and parts thereof: Ball bearings: Other..."

HOLDING:

By application of GRI 1 and Note 2(a) to Section XVI, the Fork Lift Load Roller is a roller bearing that is properly classified under heading 8482, HTSUS. Specifically, the Fork Lift Load Roller is properly classified under subheading 8482.10.50, HTSUS, which provides for "Ball or roller bearings, and parts thereof: Ball bearings: Other..." The general column one rate of duty, for merchandise classified in this subheading is 9%.

Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at www.usitc.gov.

EFFECT ON OTHER RULINGS:

CBP Ruling HQ 088457 (January 31, 1991) is hereby REVOKED.

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

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

GRANT OF "LEVER-RULE" PROTECTION

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

ACTION: Notice of grant of application for "Lever-Rule" protection.

SUMMARY: Pursuant to 19 CFR 133.2(f), this notice advises interested parties that CBP has granted "Lever-Rule" protection to Fujifilm North America Corporation's ("Fujifilm") federally registered and recorded "Fujifilm" trademark. Notice of the receipt of an application for "Lever-rule" protection was published in the November 23, 2016 issue of the Customs Bulletin.

FOR FURTHER INFORMATION CONTACT: Tamar Anolic, Intellectual Property Rights Branch, Regulations & Rulings, (202) 325–0036.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to 19 CFR 133.2(f), this notice advises interested parties that CBP has granted "Lever-Rule" protection for cameras and accessories intended for sale in countries outside the United States that bear the Fujifilm's "Fujifilm" word mark, U.S. Trademark Registration No. 4,107,458/CBP Recordation No. TMK 16–00784. This grant of "Lever-Rule" protection is applied to cameras and accessories of Fujifilm's X-Series, as all models for which protection was applied belong to this series.

In accordance with the holding of *Lever Bros. Co. v. United States*, 981 F.2d 1330 (D.C. Cir. 1993), CBP has determined that the gray market cameras and accessories differ physically and materially from their correlating cameras and accessories authorized for sale in the United Sates with respect to the following product characteristics: U.S.-specific charging apparatus, warranty, UPC codes, and the UL Listing of U.S. products.

ENFORCEMENT

Importation of the above-referenced cameras and accessories, intended for sale in other countries is restricted, unless the labeling requirements of 19 CFR § 133.23(b) are satisfied.

Dated: October 12, 2017

CHARLES R. STEUART
Chief,
Intellectual Property Rights Branch
Regulations and Rulings,
Office of Trade

QUARTERLY IRS INTEREST RATES USED IN CALCULATING INTEREST ON OVERDUE ACCOUNTS AND REFUNDS ON CUSTOMS DUTIES

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

ACTION: General notice.

SUMMARY: This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will remain the same from the previous quarter. For the calendar quarter beginning October 1, 2017, the interest rates for overpayments will be 3 percent for corporations and 4 percent for non-corporations, and the interest rate for underpayments will be 4 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: The rates in this notice are applicable from October 1, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Shandy Plicka, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 298–1717.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 provides different interest rates applicable to overpayments: One for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2017–18, the IRS determined the rates of interest for the calendar quarter beginning October 1, 2017, and ending on December 31, 2017. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus three per-

centage points (3%) for a total of four percent (4%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%). These interest rates are subject to change for the calendar quarter beginning January 1, 2018, and ending March 31, 2017.

For the convenience of the importing public and U.S. Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpay-ments (eff. 1–1–99) (percent)
070174	063075	6	6	.....
070175	013176	9	9	.....
020176	013178	7	7	.....
020178	013180	6	6	.....
020180	013182	12	12	.....
020182	123182	20	20	.....
010183	063083	16	16	.....
070183	123184	11	11	.....
010185	063085	13	13	.....
070185	123185	11	11	.....
010186	063086	10	10	.....
070186	123186	9	9	.....
010187	093087	9	8	.....
100187	123187	10	9	.....
010188	033188	11	10	.....
040188	093088	10	9	.....
100188	033189	11	10	.....
040189	093089	12	11	.....
100189	033191	11	10	.....
040191	123191	10	9	.....
010192	033192	9	8	.....
040192	093092	8	7	.....
100192	063094	7	6	.....
070194	093094	8	7	.....
100194	033195	9	8	.....

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpay-ments (eff. 1–1–99) (percent)
040195	063095	10	9	.....
070195	033196	9	8	.....
040196	063096	8	7	.....
070196	033198	9	8	.....
040198	123198	8	7	.....
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	033116	3	3	2
040116	123117	4	4	3

Dated: October 5, 2017.

SEAN M. MILDREW,
Acting Chief Financial Officer,
Office of Finance.

[Published in the Federal Register, October 19, 2017 (82 FR 48528)]

ACCREDITATION AND APPROVAL OF AMSPEC LLC (PLAINFIELD, IL) 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 LLC (Plainfield, IL), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec LLC (Plainfield, IL), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of April 26, 2017.

DATES: AmSpec LLC (Plainfield, IL) was approved and accredited as a commercial gauger and laboratory as of April 26, 2017. The next triennial inspection date will be scheduled for April 2020.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION:

Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec LLC, 12351 South Industrial Drive East, Plainfield, IL 60585, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. AmSpec LLC is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
1	Vocabulary.
3	Tank Gauging
7	Temperature Determination.
8	Sampling.
9	Density Determinations.
12	Calculations.
17	Maritime Measurement.

AmSpec LLC is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method)
27–02	D1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–03	D4006	Standard Test Method for Water in Crude Oil by Distillation
27–04	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–05	D4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D86	Standard Test Method for Distillation of Petroleum Products.
27–11	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids.
27–13	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.
27–48	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	D93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester..
27–54	D1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.
27–58	D5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

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, inquiries 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 *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *ttp:/ /www.cbp.gov /about /labs-scientific/ commercial-gaugers-and-laboratories*.

Dated: October 11, 2017.

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

[Published in the Federal Register, October 19, 2017 (82 FR 48721)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

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

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted no later than November 15, 2017 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office

of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This proposed information collection was previously published in the **Federal Register** (82 FR 34965) on July 27, 2017, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through 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. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 1651–0136.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours.

Type of Review: Extension (without change).

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative

feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Affected Public: Individuals and businesses.

Type of Collection: Comment cards.

Estimated Number of Respondents: 10,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 10,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 500 hours.

Type of Collection: Customer Surveys.

Estimated Number of Respondents: 50,000.

Estimated Numbers of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 50,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 12,500.

Dated: October 11, 2017.

SETH RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, October 16, 2017 (82 FR 48108)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Application for Waiver of Passport and/or Visa

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

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than November 15, 2017) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (82 FR 34962) on July, 27, 2017 allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through 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. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application for Waiver of Passport and/or Visa.

OMB Number: 1651–0107.

Form Number: DHS Form I–193.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected on Form I–193.

Type of Review: Extension (without change).

Abstract: The data collected on DHS Form I–193, Application for Waiver of Passport and/or Visa, is used by CBP to determine an applicant's identity, alienage, and claim to legal status in the United States, and eligibility to enter the United States. DHS Form I–193 is an application submitted by a nonimmigrant alien seeking admission to the United States requesting a waiver of passport and/or visa requirements due to an unforeseen emergency. It is also an application submitted by an immigrant alien returning to an unrelinquished lawful permanent residence in the United States after a temporary absence abroad requesting a waiver of documentary requirements for good cause. The waiver of the documentary requirements and the information

collected on DHS Form I–193 is authorized by Sections 212(a)(7), 212(d)(4), and 212(k) of the Immigration and Nationality Act, as amended, and 8 CFR 103.7(b)(1)(i)(Q), 211.1(b)(3), and 212.1(g). This form is accessible at *https://www.uscis.gov/i-193.*

Affected Public: Individuals.

Estimated Number of Respondents: 25,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 4,150.

Dated: October 11, 2017.

SETH RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, October 16, 2017 (82 FR 48109)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions

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

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than November 15, 2017) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (82 FR 35981) on August 2, 2017, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through 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. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions.

OMB Number: 1651–0067.

Current Actions: CBP proposes to extend the expiration date of this information collection with a no changes to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Abstract: CBP is responsible for determining whether imported articles that are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 9801.00.10, 9802.00.20, 9802.00.40, 9802.00.50, 9802.00.60 and 9817.00.40 are entitled to duty-free or reduced duty treatment. In order to file under these HTSUS provisions, importers, or their agents, must have the declarations that are provided for in 19 CFR 10.1(a), 10.8(a), 10.9(a) and 10.121 in their possession at the time of entry and submit them to CBP upon request. These declarations enable CBP to ascertain whether the requirements of these HTSUS provisions have been satisfied.

Affected Public: Businesses.

Estimated Number of Respondents: 19,445.

Estimated Number of Responses per Respondent: 3.

Estimated Number of Total Annual Responses: 58,335.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 933.

Dated: October 11, 2017.

SETH RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, October 16, 2017 (82 FR 48107)]