

U.S. Customs and Border Protection



PROPOSED REVOCATION OF FIVE RULING LETTERS AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF VARIOUS HAIR TRIMMERS

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

ACTION: Notice of proposed revocation of five ruling letters, and proposed revocation of treatment relating to the tariff classification of various hair trimmers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke five ruling letters concerning tariff classification of various hair trimmers 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 August 2, 2019.

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**

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke five ruling letters pertaining to the tariff classification of various hair trimmers. Although in this notice, CBP is specifically referring to New York Ruling Letters ("NY") NY N272219 (January 28, 2016), NY N273910 (April 5, 2016), NY N273911 (April 5, 2016), NY N274044 (April 8, 2016) and NY N274103 (April 18, 2016), (Attachments A through E), this notice also 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 comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 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 the final decision on this notice.

In NY N272219, NY N273910, NY N273911, NY N274044 and NY N274103, CBP classified various hair trimmers in heading 8510, HTSUS, specifically in subheading 8510.00.00, HTSUS, which provides for "Shavers, hair clippers and hair-removing appliances, with

self-contained electric motor; parts thereof: Shavers.” CBP has reviewed NY N272219, NY N273910, NY N273911, NY N274044 and NY N274103, and has determined the ruling letters to be in error. It is now CBP’s position that the hair trimmers are still properly classified, in heading 8510, HTSUS, but are specifically in subheading 8510.20.90, HTSUS, which provides for “Shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof: Hair clippers: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N272219, NY N273910, NY N273911, NY N274044 and NY N274103, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H286686, set forth as Attachment F 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: June 11, 2019

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N272219

January 28, 2016
CLA-2-85:OT:RR:NC:N4:110
CATEGORY: Classification
TARIFF NO.: 8510.10.0000

MS. NINI WEY
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
3000 MINUTEMAN ROAD
ANDOVER, MA 01810

RE: The tariff classification of a men's shaver from Indonesia

DEAR MS. WEY:

In your letter dated January 18, 2016, you requested a tariff classification ruling.

The item is identified as the Philips Norelco OneBlade QP2520/90, a hybrid shaver that has a dual blade for trimming, edging, and shaving any length of hair. The shaver has a self-contained electric motor, which is operated by a NimH rechargeable battery. The shaver includes 1, 3 and 5mm trimming combs. An 8 hours of charge provides 45 minutes of use. The OneBlade is waterproof that allows for dry or wet use.

The applicable subheading for the Philips Norelco OneBlade QP2520/90, will be 8510.10.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof, shavers. 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/>.

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 Hope Abada at hope.abada@cbp.dhs.gov.

Sincerely,

DEBORAH C. MARINUCCI
Acting Director
National Commodity Specialist Division

ATTACHMENT B

N273910

April 5, 2016

CLA-2-85:OT:RR:NC:N4:110

CATEGORY: Classification

TARIFF NO.: 8510.10.0000

MS. NIMI WEY

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION

3000 MINUTEMAN ROAD

ANDOVER, MA 01810

RE: The tariff classification of a shaver from China

DEAR MS. WEY:

In your letter dated March 14, 2016, you requested a tariff classification ruling.

The product under consideration is the Philips Norelco GoStyler FS9185/49. The product is a battery powered shaver with a self-contained electric motor. The unit is used for trimming, shaping and shaving facial hair. The shaver has a double-sharpened stainless steel blades with rounded tips to ensure a smooth glide on the skin. The unit includes three click-on beard combs ranging at 1, 3 and 5mm (1/32", 1/8", 3/16"). There is also a click-on 21mm (13/16") detail shaver. The detail foil shaver is designed to fit into tight spaces with more precision than a blade. The shaver is fully portable and runs on AA batteries.

The applicable subheading for the Philips Norelco GoStyler FS9185/49, will be 8510.10.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof, shavers. 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/>.

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 Hope Abada at hope.abada@cbp.dhs.gov.

Sincerely,

DEBORAH C. MARINUCCI

Acting Director

National Commodity Specialist Division

ATTACHMENT C

N273911

April 5, 2016

CLA-2-85:OT:RR:NC:N4:110

CATEGORY: Classification

TARIFF NO.: 8510.10.0000

Ms. NINI WEY

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION

3000 MINUTEMAN ROAD

ANDOVER, MA 01810

RE: The tariff classification of a beard trimmer from China

DEAR Ms. WEY:

In your letter dated March 14, 2016, you requested a tariff classification ruling.

The merchandise under consideration is the Philips Norelco Beard Trimmer 3500. The item is a beard and stubble trimmer with a self-contained electric motor. The item is powered by a rechargeable lithium ion batteries and can be used both corded and cordless. The beard trimmer features 20 lengths settings with a single comb. The shortest hair trimming setting ranges from 0.5mm up to 10mm. The Titanium blades and detachable heads allows for easy cleaning. The item features self-sharpening steel blades that are designed to effectively cut each hair perfectly and prevent a skin irritation.

The applicable subheading for the Philips Norelco Beard Trimmer 3500, will be *8510.10.0000*, Harmonized Tariff Schedule of the United States (HTSUS), which provides for shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof, shavers. 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/>.

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 Hope Abada at hope.abada@cbp.dhs.gov.

Sincerely,

DEBORAH C. MARINUCCI

*Acting Director**National Commodity Specialist Division*

ATTACHMENT D

N274044

April 8, 2016

CLA-2-85:OT:RR:NC:N4:110

CATEGORY: Classification

TARIFF NO.: 8510.10.0000

MS. NINI WEY

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION

3000 MINUTEMAN ROAD

ANDOVER, MA 01810

RE: The tariff classification of nose, ear and eyebrow trimmer from China

DEAR MS. WEY:

In your letter dated March 14, 2016, you requested a tariff classification ruling.

The item under consideration is the Philips Norelco Nose Trimmer NT3355/49. The item is a battery operated cordless shaver having a self-contained electric motor, a sliding "on/off" switch and a protective cap. The item has stainless steel blades and it is designed to gently remove unwanted nose, ear and eyebrow hairs. It has a ProtecTube technology and the specially designed angle of the trimmer ensures an easy and comfortable trim without pulling. Both cutter and guard have ultra-precise and sharp cutting slots to ensure all hairs of nose, ear or eyebrow are quickly and effectively cut. The trimmer and the combs are water resistant and easy to clean under the faucet after each use. A Lithium AA battery is included.

The applicable subheading for the Philips Norelco Nose Trimmer NT3355/49, will be 8510.10.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof, shavers. 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/>.

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 Hope Abada at hope.abada@cbp.dhs.gov.

Sincerely,

DEBORAH C. MARINUCCI

Acting Director

National Commodity Specialist Division

ATTACHMENT E

N274103

April 18, 2016

CLA-2-85:OT:RR:NC:N4:110

CATEGORY: Classification

TARIFF NO.: 8510.10.0000

MS. NINI WEY

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION

3000 MINUTEMAN ROAD

ANDOVER, MA 01810

RE: The tariff classification of an all-in-one beard and hair trimmer from Indonesia

DEAR MS. WEY:

In your letter dated March 22, 2016, you requested a tariff classification ruling.

The merchandise under consideration is the Philips Norelco Multigroom 5100, QG3364/49. This shaver is a battery powered all-in-one beard and hair trimmer with a self-contained motor. It includes 4 attachments such as, full size metal trimmer, detail trimmer, detail foil shaver and nose trimmer. It also includes 3 combs such as, 18-setting beard and stubble comb (18mm), 12-setting stubble comb (12mm) and 18-setting hairclipper comb (3-20mm). The combs and the attachments are designed to cut different lengths of hair. The blades are skin-friendly, self-sharpening steel blades. The unit is powered by a rechargeable lithium-ion battery and may be used corded or cordless. The unit is fully washable and can be used dry or wet. The full size metal trimmer is used without combs to complete the style and get clean edges on the beard. The stubble comb attachment can trim the stubble to the exact length by locking the setting that suits the desired length from 1mm to 12mm. The nose trimmer attachment will remove unwanted nose and ear hair. The precision trimmer attachment creates fine lines with contours and details to define the look. The detail foil shaver attachment will get rid of unwanted hairs in smaller areas on the cheek and chin for clean finishes.

The applicable subheading for the Philips Norelco Multigroom 5100, QG3364/49, will be 8510.10.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof, shavers. 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/>.

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 Hope Abada at hope.abada@cbp.dhs.gov.

Sincerely,

DEBORAH C. MARINUCCI

*Acting Director**National Commodity Specialist Division*

ATTACHMENT F

HQ H286686
CLA-2 OT:RR:CTF:TCM H286686 DSR
CATEGORY: Classification
TARIFF NO.: 8510.20.90

MS. NINI WEY
PHILIPS ELECTRONICS NORTH AMERICAN CORPORATION
3000 MINUTEMAN ROAD
ANDOVER, MA 01810

RE: Revocation of NY N272219, NY N273910, NY N273911, NY N274044,
NY N274103; tariff classification of various hair trimmers

DEAR MS. WEY:

In New York Ruling Letters (“NY”) NY N272219 (January 28, 2016), NY N273910 (April 5, 2016), NY N273911 (April 5, 2016), NY N274044 (April 8, 2016) and NY N274103 (April 18, 2016), U.S. Customs and Border Protection (“CBP”) classified various hair trimmer sets in subheading 8510.10.00, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “Shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof: Shavers.” CBP has reviewed the rulings and has determined that the classification provided for the hair trimmers is incorrect and, therefore, the rulings must be revoked for the reasons set forth in this ruling.

FACTS:

The item of NY N272219 is described as follows:

The item is identified as the Philips Norelco OneBlade QP2520/90, a hybrid shaver that has a dual blade for trimming, edging, and shaving any length of hair. The shaver has a self-contained electric motor, which is operated by a NiMH rechargeable battery. The shaver includes 1, 3 and 5mm trimming combs. An 8 hours of charge provides 45 minutes of use. The OneBlade is waterproof, which allows for dry or wet use.

The item of NY N273910 is described as follows:

The product under consideration is the Philips Norelco GoStyler FS9185/49. The product is a battery powered shaver with a self-contained electric motor. The unit is used for trimming, shaping and shaving facial hair. The shaver has a double-sharpened stainless steel blades with rounded tips to ensure a smooth glide on the skin. The unit includes three click-on beard combs ranging at 1, 3 and 5mm (1/32”, 1/8”, 3/16”). There is also a click-on 21mm (13/16”) detail shaver. The detail foil shaver is designed to fit into tight spaces with more precision than a blade. The shaver is fully portable and runs on AA batteries.

The item of NY N273911 is described as follows:

The item under consideration is the Philips Norelco Beard Trimmer 3500. The item is a beard and stubble trimmer with a self-contained electric motor. The item is powered by a rechargeable lithium ion batteries and can be used both corded and cordless. The beard trimmer features 20 lengths settings with a single comb. The shortest hair trimming setting ranges from 0.5mm up to 10mm. The Titanium blades and detachable

heads allows for easy cleaning. The item features self-sharpening steel blades that are designed to effectively cut each hair perfectly and prevent a skin irritation.

The item of NY N274044 is described as follows:

The item under consideration is the Philips Norelco Nose Trimmer NT3355/49. The item is a battery operated cordless shaver having a self-contained electric motor, a sliding “on/off” switch and a protective cap. The item has stainless steel blades and it is designed to gently remove unwanted nose, ear and eyebrow hairs. It has a ProtecTube technology and the specially designed angle of the trimmer ensures an easy and comfortable trim without pulling. Both cutter and guard have ultra-precise and sharp cutting slots to ensure all hairs of nose, ear or eyebrow are quickly and effectively cut. The trimmer and the combs are water resistant and easy to clean under the faucet after each use. A Lithium AA battery is included.

The item of NY N274103 is described as follows:

The merchandise under consideration is the Philips Norelco Multigroom 5100, QG3364/49. This shaver is a battery powered all-in-one beard and hair trimmer with a self-contained motor. It includes 4 attachments such as, full size metal trimmer, detail trimmer, detail foil shaver and nose trimmer. It also includes 3 combs such as, 18-setting beard and stubble comb (18mm), 12-setting stubble comb (12mm) and 18-setting hairclipper comb (3–20mm). The combs and the attachments are designed to cut different lengths of hair. The blades are skin-friendly, self-sharpening steel blades. The unit is powered by a rechargeable lithium-ion battery and may be used corded or cordless. The unit is fully washable and can be used dry or wet. The full size metal trimmer is used without combs to complete the style and get clean edges on the beard. The stubble comb attachment can trim the stubble to the exact length by locking the setting that suits the desired length from 1mm to 12mm. The nose trimmer attachment will remove unwanted nose and ear hair. The precision trimmer attachment creates fine lines with contours and details to define the look. The detail foil shaver attachment will get rid of unwanted hairs in smaller areas on the cheek and chin for clean finishes.

ISSUE:

Are the items are classified under subheading 8510.10, HTSUS, as shavers or under subheading 8510.20, HTSUS, as hair clippers?

LAW AND ANALYSIS:

Classification under the HTSUS is determined 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 in this ruling are as follows:

8510	Shavers, hair clippers and hair-removing appliances, with self-contained electric motor; parts thereof:
8510.10.00	Shavers.
* * *	
8510.20	Hair clippers:
* * *	
8510.20.90	Other.
* * * *	

The Harmonized Commodity Description and Coding System (HS) Explanatory Notes (“ENs”) constitute the official interpretation of the HS. While not legally binding or dispositive, the ENs provide a commentary on the scope of each heading of the HS at the international level, and are generally indicative of the proper interpretation of these headings. See T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989). EN 85.10 states the following:

This heading covers electric shavers and hair clippers which have a built-in electric motor or vibrator, whether for use on human beings, or for shearing sheep or for grooming horses, clipping cattle, etc.

In electric shavers (dry shavers) rotating or reciprocating cutters or knife blades slide along the inside of a perforated or slotted plate, thus cutting those hairs which protrude through the perforations or slots. In the case of hair clippers, a comb-like cutter blade slides to and fro over a fixed metal comb thus cutting the hair or wool which is caught between the teeth of the combs. Hair clippers for barbers’ use operate on a similar principle to those for sheep shearers, grooms, etc., but differ in size.

This heading also covers electro-mechanical hair-removing appliances with self-contained electric motor; these appliances, which grip the hair and pluck it out at the root, may operate with either a micro-roller, or a metal spiral which rotates around its own axis, or a guard, a depilating head and a set of depilating wheels. [Emphasis added]

The items that are the subject of this ruling are sets consisting of motorized devices that trim hair and that are accompanied by a single trimming comb (NY N273911); several trimming combs of various sizes (NY N272219), trimming combs of various sizes and a click-on detail shaver (NY N273910), two eyebrow trimming combs (NY N274044); or, in the case of NY N274103, four trimmer attachments for different uses and three trimming combs of various sizes and uses. Given that the imported items are sets for retail sale, and applying GRI 3(b), we find that the trimmers, in whichever forms they take on once any of the various attachments or combs are employed, impart the essential character of the sets.

There is no dispute that the subject trimmers are classified in heading 8510, HTSUS, which provides, in relevant part, for shavers, hair clippers and hair-removing appliances, with self-contained electric motor. Rather, the issue is the proper classification at the subheading level within heading 8510, HTSUS. 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.

In NY N274103, the device can accommodate four attachments that allow the device to be used as a full-size metal trimmer, detail trimmer, detail foil shaver or nose trimmer. When used with the full-size metal trimmer attachment, the device cuts beard stubble to varying lengths while employing any of the included combs and, when used without the combs, can define clean edges on the beard or goatee. The detail trimmer attachment is used to define even sharper edges around a user's beard or goatee. When used with the detail foil shaver attachment, the device shaves small areas on the user's cheeks and chin with precision. The nose trimmer attachment allows the device to be used to trim unwanted nose and ear hair. The full-size metal trimmer attachment and detail trimmer attachment cut hair by employing a reciprocating cutter blade that moves back and forth over a fixed metal comb. That cutting action squarely falls within the cutting action described in EN 85.10 as that belonging to a clipper of subheading 8510.20, HTSUS. The foil shaver attachment cuts hair by employing blades that move along the inside of a perforated foil plate and cuts hair that protrudes through the plate. That cutting action is akin to the cutting action described in EN 85.10 as that of a shaver of subheading 8510.10, HTSUS. The nose trimmer attachment cuts hair by employing a rotating cutter that spins within a small metal tube into which hairs enter. That cutting action is akin to the cutting action described in EN 85.10 as that of a shaver of subheading 8510.10.00, HTSUS. Given that the attachments allow the device of NY N274103 to possess cutting functions that are described in two subheadings of heading 8510, HTSUS, we must determine which of those functions is the device's principal function by application of GRI 6 and Note 3 to Section XVI, HTSUS. Note 3 states, in pertinent part, the following:

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

As stated, the full-size trimmer attachment is used to cut beard stubble (while employing any of the included combs) and, when used without combs, can complete the style and define clean edges to the beard. The detail trimmer attachment is used to define sharp lines around a user's beard or goatee. The foil shaver attachment is used to shave small areas on the user's cheeks and chin with precision. The nose trimmer attachment allows the trimmer to be used to trim unwanted nose and ear hair. Although each of the above trimmer and shaver attachments are used to cut hair, it is the full-size trimmer attachment that provides the device with the most utility because it can be effectively used to cut large swaths of hair from a beard covering a user's entire face and neck as necessary, and also to detail clean beard edges. The remaining attachments' intended uses are much narrower and focus upon more discrete portions of a user's visage. We find that the detail trimmer, foil shaver, and nose trimmer functions are subsidiary to the principal function of the trimmer, which is to act as a hair clipper of subheading 8510.20, HTSUS, and that the device is classified in subheading 8510.20.90, HTSUS. NY N274103 is therefore revoked.

The trimmer in NY N273911 features a reciprocating cutter blade that moves back and forth over a fixed metal comb. The device can cut hair to varying lengths via twenty adjustable length settings. The cutting action

squarely falls within the cutting action described in EN 85.10 as that belonging to a clipper of subheading 8510.20, HTSUS. We find that the device is classified in subheading 8510.20.90, HTSUS, and NY N273911 is therefore revoked.

The trimmer in NY N273910 features a reciprocating cutter blade that moves back and forth over a fixed metal comb. The device can cut hair to varying lengths by attaching three click-on beard combs and a foil detail shaver. With the click-on beard combs, the device's cutting action squarely falls within the scope of the cutting action described in EN 85.10 as that belonging to a clipper of subheading 8510.20, HTSUS. However, the foil detail shaver attachment cuts hair by employing blades that move along the inside of a perforated foil cover. That cutting action is akin to the cutting action described in EN 85.10 as that of a shaver of subheading 8510.10, HTSUS. Given that the trimmer of NY N273910 possesses functions that are described in two subheadings of heading 8510, we must apply GRI 6 and Note 3 to Section XVI, HTSUS, to determine the device's principal function.

Here, the full-size trimmer attachment features a reciprocating cutting blade that allows a user to trim hair to varying lengths from large areas of the lower face. The foil detail shaver attachment is merely useful for defining precise lines, edges and contours. We therefore find that the principal function of the trimmer is to act as a hair clipper of subheading 8510.20.90, HTSUS, and the device is classified as such. NY N273910 is therefore revoked.

The trimmer of NY N272219 features shaving technology in which a double-sided reciprocating cutting blade moves back and forth within a fixed metal plate with comb-like edges, and shears hairs that are caught between the reciprocating cutting blade edges and the fixed plate edges. An image appears below:



That cutting action is akin to the cutting action described by EN 85.10 as belonging to a hair clipper of subheading 8510.20, HTSUS. We find that the device is classified in subheading 8510.20.90, HTSUS, and NY N272219 is therefore revoked.

The trimmer of NY N274044 features technology in which two separately moving cutting blades move back and forth to shear hairs that are caught between the trimmer's foil guard and cutting blades. The foil guard structurally resembles a fixed comb that is characteristic of a clipper of subheading 8510.20, HTSUS, as does the cutting action. An image of the cutting mechanism appears below:



The above cutting action is most similar to the cutting action described in EN 85.10 as that of a hair clipper of subheading 8510.20, HTSUS. We find that the device is classified in subheading 8510.20.90, HTSUS, and NY N272219 is therefore revoked.

HOLDING:

By application of GRIs 1, 3(b) and 6, and Note 3 to Section XVI, HTSUS, the trimmers of NY N272219, NY N273910, NY N273911, NY N274044 and NY N274103 are properly classified as clippers of subheading 8510.20.90, HTSUS, 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 N272219 (January 28, 2016), NY N273910 (April 5, 2016), NY N273911 (April 5, 2016), NY N274044 (April 8, 2016) and NY N274103 (April 18, 2016) are revoked in accordance with this decision.

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

GENERAL NOTICE

19 CFR PART 177

MODIFICATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF RECLINING SOFAS

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 reclining sofas.

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 tariff classification of reclining sofas 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. 53, No. 12, on April 24, 2019. 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 September 2, 2019.

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

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 53, No. 12, on April 24, 2019, proposing to modify one ruling letter pertaining to the tariff classification of reclining sofas. 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 19 U.S.C. § 1625(c)(2), 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 New York Ruling Letter ("NY") N289071, dated August 25, 2017, CBP classified reclining sofas in heading 9401, HTSUS, specifically in subheading 9401.61.40, HTSUS, which provides for "Other seats, with wooden frames: Upholstered: Chairs: Other." CBP has reviewed NY N289071 and has determined the ruling letter to be in error. It is now CBP's position that reclining sofas are properly classified, in heading 9401, HTSUS, specifically in subheading 9401.61.60, HTSUS, which provides for "Other seats, with wooden frames: Upholstered: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying NY N289071 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H290176, 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: May 30, 2019

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H290176

May 30, 2019

OT:RR:CTF:CPMM H290176 RRB

CATEGORY: Classification

TARIFF NO.: 9401.61.6011

DENISE N. YAPP
TARIFF CLASSIFICATION SPECIALIST
ASHLEY FURNITURE INDUSTRIES, INC.
ONE ASHLEY WAY
ARCADIA, WI 54612

RE: Modification of NY N289071; Tariff classification of reclining sofa from Vietnam

DEAR MS. YAPP:

This is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York (“NY”) Ruling Letter N289071, dated August 25, 2017, regarding the classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) of a recliner and sofa. The recliner and sofa were classified under subheading 9401.61.4011, HTSUSA (Annotated), as “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats, with wooden frames: Upholstered: Chairs: Other: Other household.” After reviewing this ruling in its entirety, we believe that it is partially in error. For the reasons set forth below, we hereby modify NY N289071 with respect to the classification of the sofa. The remaining analysis of NY N289071 remains unchanged.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Volume 53, No. 12 on April 24, 2019, proposing to modify NY N289071, and any treatment accorded to substantially similar transactions. No comments were received in response to this notice.

FACTS:

In NY N289071, we described the recliner as follows:

Ashely (sic) item number 4060025 is described, and depicted in photographs and drawings as a wood framed rocker recliner. The seat frame, back and arms are constructed of plywood and the reclining mechanism is of metal. The rocker recliner features a metal drop-in utilized seat-box for strength and durability that rests on the floor. This item will be completely upholstered in polyester fabric.

In NY N289071, we described the sofa as follows:

Ashley item number 4060088 is described, and depicted in photographs and drawings as a wood framed reclining sofa. The seat frame, back and arms are constructed of plywood and the reclining mechanism is of metal. The reclining sofa features a metal drop-in utilized seat-box for strength and durability that rests on the floor. This item will be completely upholstered in polyester fabric.

ISSUE:

Whether sofas are classified under subheading 9401.61.4011, HTSUSA, as “[o]ther seats, with wooden frames: [c]hairs,” or under subheading 9401.61.6011, HTSUSA, as “[o]ther seats, with wooden frames: [o]ther.”

LAW AND ANALYSIS:

The classification of merchandise under the HTSUS is governed by the General Rules of Interpretation (“GRIs”). 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.

The HTSUS headings under consideration are as follows:

9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:
	Other seats, with wooden frames:
9401.61	Upholstered:
	Chairs:
9401.61.40	Other:
9401.61.4011	Other household.
9401.61.60	Other:
9401.61.6011	Other household.

* * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN 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 consult, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (Aug. 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.

* * * *

Subheading 9401.60, HTSUS, provides for “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other

seats, with wooden frames: Upholstered.” There is no dispute at the six-digit level that the subject reclining sofas and recliners are classified therein. Instead, the issue arises at the eight-digit subheading level as to whether or not the subject reclining sofas and recliners are “chairs” of subheading 9401.61.40, HTSUS, or “other” of subheading 9401.61.60, HTSUS.

In NY N289071, CBP determined that the sofas and recliners were classified in subheading 9401.61.4011, HTSUSA, as “Other seats, with wooden frames: Upholstered: Chairs: Other: Other household.” However, in its reconsideration request, Ashley Furniture Industries, Inc. (“Ashley Furniture”) argues that the correct classification of the sofas is under subheading 9401.61.6011, HTSUSA, as “Other seats, with wood frames: Upholstered: Other: Other household.”

The term “chair” is not defined in the tariff schedule or in the ENs. 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 Oxford English Dictionary defines “chair” as “[a] seat for one person (always implying more or less of comfort and ease).” See OXFORD ENGLISH DICTIONARY, <http://www.oed.com> (last visited June 12, 2018). The Merriam-Webster Online Dictionary also defines “chair” as “<https://www.merriam-webster.com/dictionary/chair><https://www.merriam-webster.com/dictionary/chair>[a] long, stuffed seat with a back and ends or end, used for reclining; a form of lounge or couch See OXFORD ENGLISH DICTIONARY, <http://www.oed.com> (last visited June 12, 2018). Therefore, in order for seats of heading 9401, HTSUS, to be classified as “chairs” of subheading 9401.61.40, HTSUS, they can only accommodate one person.

The subject merchandise consists of two different items: a wood framed rocker recliner and a wood framed sofa that reclines. As depicted in photographs and based on descriptions of the rocker recliner, this item seats only one person. Unlike the rocker recliner, photographs and descriptions of the sofa depict an item with three seat backs for seating three people. Both the rocker recliner and the sofa have seat frames, backs and arms constructed of plywood, a metal reclining mechanism, and polyester fabric upholstery.

In NY N007097, dated March 1, 2007; NY I85738, dated August 28, 2002; NY I82172, dated May 29, 2002; and NY A81799, dated April 30, 1996, we classified sofas and loveseats in subheading 9401.61.60, HTSUS. In those rulings, the items at issue were also upholstered sofas with wooden frames. The only difference was that those sofas were not reclining sofas. However, this detail is irrelevant as to whether the sofas are classified in subheading 9401.61.60, HTSUS, or in subheading 9401.61.40, HTSUS, as long as the merchandise, in its condition as imported, seats more than one person. For instance, in NY B85945, dated May 30, 1997, even though an item was described as a sofa, it was classified in subheading 9401.61.40, HTSUS, because it could only accommodate one person.

In NY N289071, the item described as a rocker recliner was correctly classified in subheading 9401.61.40, HTSUS, because it only accommodates one person.

HOLDING:

Pursuant to GRI 1, the subject sofas are classified in subheading 9401, HTSUS, specifically under subheading 9401.61.6011, HTSUSA, as “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Other seats, with wooden frames: Upholstered: Other: Other household.” The 2018 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 accompany duty rate are provided on the World Wide Web, at <http://www.usitc.gov/tata.hts/>.

EFFECT ON OTHER RULINGS:

NY N289071, dated August 25, 2017, is hereby MODIFIED as set forth above with regard to the classification of sofas described therein, but the classification of the rocker recliners remains 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,

ALLYSON MATTANAH

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

GENERAL NOTICE

19 CFR PART 177

MODIFICATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF A SURGICAL TRAY

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 a surgical tray.

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 tariff classification of a surgical tray 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. 53, No. 9, on April 3, 2019. 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 September 2, 2019.

FOR FURTHER INFORMATION CONTACT: Patricia Fogle, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings Branch, Regulations and Rulings, Office of Trade, at (202) 325–0061.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 53, No. 9, on April 3, 2019, proposing to modify one ruling letter pertaining to the tariff classification of a surgical tray. 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 19 U.S.C. § 1625(c)(2), 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 New York Ruling Letter ("NY") N177676, dated August 25, 2011, CBP classified a surgical tray in heading 9018, HTSUS, specifically in subheading 9018.49.80, 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 instruments and appliances, used in dental sciences, and parts and accessories thereof: Other: Other." CBP has reviewed NY N177676 and has determined the ruling letter to be in error. It is now CBP's position that the surgical tray is properly classified, in heading 7326, HTSUS, specifically in subheading 7326.90.86, HTSUS, which provides for "Other articles of iron or steel: Other: Other: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying NY N177676 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H277654, 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: June 12, 2019

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

Attachment

HQ H277654

June 12, 2019

CLA-2 OT:RR:CTF:EMAIN H277654 PF

CATEGORY: Classification

TARIFF NO.: 7326.90.86

PETER VANDEPUT

MATERIALISE DENTAL, NV

TECHNOLOGIELAAN 15

3001 LEUVEN - BELGIUM

RE: Modification of NY N177676; tariff classification of dentistry items from Belgium

DEAR MR. VANDEPUT:

This is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York (“NY”) Ruling Letter N177676, dated August 25, 2011, regarding the classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) of a surgical tray. The surgical tray was classified under subheading 9018.49.80, HTSUS, as “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 instruments and appliances, used in dental sciences, and parts and accessories thereof: Other: Other.” After reviewing this ruling in its entirety, we believe that it is partially in error. For the reasons set forth below, we hereby modify NY N177676 with respect to the classification of the surgical tray. The remaining analysis of N177676 remains unchanged.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice proposing to modify NY N177676 was published on April 3, 2019 in Volume 53, Number 9 of the *Customs Bulletin*. No comments were received in response to the proposed action.

FACTS:

In NY N177676, we described the products as follows:

The LongStop Drills, which come in various diameters and lengths, all color coded, are:

“(D)ental drills for the creation of the osteotomy. Specific features of LongStop Drills include a flange that blocks the user from drilling deeper than virtually planned in a 3D dental software. Indeed, when the flange makes contact with the top of a drill key or the top of a guiding tube, deeper guided drilling is made impossible.” The LongStop Drills are imported in individual plastic containers and are intended for multiple uses (after sterilization).

During the dental surgery, the LongStop drills are taken from a specialized, color coded, surgical tray. The surgical tray allows for easy selection of the components during surgery and for efficient replacement after the procedure by matching the color of the rings on the drill shank with the color of the silicone plugs in the tray.

The tray, made of metal, also has, inter alia, a notched section with millimeter lengths marked off so that the length of the drill can be double

checked before use, a hinged top, spaces for additional drills which are not color coded, a relatively shallow subtray, and a hinged top. It has holes in it to also allow it to be used in sterilization. The drills will not be imported in the trays.

In addition, a Summary of Technical Documentation provided by you indicates that the surgical tray is made of stainless steel and depicts the surgical tray holding the drill shanks.

ISSUE:

Whether the subject surgical tray is classifiable in heading 7326, HTSUS, as other articles of iron or steel or in heading 9018, HTSUS, as other instruments and appliances used in dental sciences and parts and accessories thereof.

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:

7326	Other articles of iron or steel
9018	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

* * *

Section XV, Note 1(h) states:

This section does not cover:

(h) Instruments or apparatus of section XVIII, including clock or watch springs:

Note 2 to Chapter 90, HTSUS, provides as follows:

Subject to Note 1 above, parts and accessories for machines, apparatus, instruments or articles of this chapter are to be classified according to the following rules:

- (a) Parts and accessories which are goods included in any of the headings of this chapter or of chapter 84, 85 or 91 (other than heading 8487, 8548 or 9033) are in all cases to be classified in their respective headings;
- (b) Other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instrument or apparatus, or with a number of machines, instruments or apparatus of heading 9010, 9013 or 9031) are to be classified with the machines, instruments or apparatus of that kind.

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

The EN to heading 7326, states, in relevant part:

This heading covers all iron or steel articles obtained by forging or punching, by cutting or stamping or by other processes such as folding, assembling, welding, turning, milling, or perforating **other than** articles included in the preceding headings of this Chapter or covered by Note 1 to Section XV or included in **Chapter 82 or 83** or more specifically covered elsewhere in the Nomenclature.

The EN to heading 9018, states, in relevant part:

This heading covers a very wide range of instruments and appliances which, in the vast majority of cases, are used only in professional practice (e.g., by doctors, surgeons, dentists, veterinary surgeons, midwives), either to make a diagnosis, to prevent or treat an illness or to operate, etc.

Note 1(h) to section XV, states that this section does not cover the instruments or apparatus of section XVIII. Chapter 90, HTSUS, is in section XVIII. Chapter 73 is in section XV. As a result, instruments and apparatus of Section XVIII (chapter 90) are excluded from Section XV (chapter 73). If the surgical tray is classifiable under chapter 90, and specifically, under heading 9018, HTSUS, a section XVIII heading, it is not classifiable in heading 7326, HTSUS. Therefore, our analysis of the subject surgical tray begins with evaluating whether it is an article of heading 9018, HTSUS.

The subject surgical tray consists of stainless steel and functions as a tool holder for the drill shanks in order with different colors to make the selection of the tools easier during surgery. The surgical tray allows for efficient replacement after surgery by matching the color of the rings on the drill shank with the color of the silicone plugs in the tray. The surgical tray also has a notched section with millimeter lengths marked off so that the length of the drill can be double checked before use, a hinged top, and spaces for additional drill shanks which are not color coded.

Heading 9018, HTSUS, provides for, among other things, instruments and appliances used in the medical and surgical sciences and their parts and accessories. EN 90.18 explains that the heading “covers a very wide range of instruments and appliances, which, in the vast majority of cases, are used only in professional practice (e.g., by doctors, surgeons, dentists, veterinary surgeons, midwives), either to make a diagnosis, to prevent or treat an illness or to operate, etc.” EN 90.18 also provides that articles of heading 9018, HTSUS, include “dental burrs, discs, drills and brushes, specifically designed for use with a dental drill engine or handpiece.” The subject surgical tray is not a dental burr, disc, drill or brush designed for use with a dental drill engine or handpiece nor is it an “other” article of heading 9018, HTSUS. Notably, the LongStop Drills are not imported with the surgical tray. The subject surgical tray is also not an instrument or appliance used by dentists to “make a diagnosis, to prevent or treat an illness or to operate.” *See* EN 90.18. Therefore, the surgical tray is not an “other” instrument or appliance used in the dental sciences of heading 9018, HTSUS.

We have also considered whether the subject surgical tray is a part or accessory of heading 9018, HTSUS. As the surgical tray is not covered by the terms of heading 9018, HTSUS, Note 2(a) to Chapter 90, HTSUS, is not applicable. However, since the LongStop Drills are classified in heading 9018, HTSUS, our analysis begins with evaluating whether the surgical tray is a part or accessory of the LongStop Drills under Note 2(b) to Chapter 90.¹

The courts have considered the nature of “parts” under the HTSUS and two distinct, though not inconsistent, tests have resulted. See *Bauerhin Techs. Ltd. P’ship. v. United States* (“*Bauerhin*”), 110 F.3d 774 (Fed. Cir. 1997). The first, articulated in *United States v. Willoughby Camera Stores, Inc.* (“*Willoughby*”), 21 C.C.P.A. 322, 324 (1933), requires a determination of whether the imported item is an “integral, constituent, or component part, without which the article to which it is to be joined, could not function as such article.” *Bauerhin*, 110 F.3d at 778 (quoting *Willoughby*, 21 C.C.P.A. 322 at 324). The second, set forth in *United States v. Pompeo* (“*Pompeo*”), 43 C.C.P.A. 9, 14 (1955), states that an “imported item dedicated solely for use with another article is a ‘part’ of that article within the meaning of the HTSUS.” *Id.* at 779 (citing *Pompeo*, 43 C.C.P.A. 9 at 13). Under either line of cases, an imported item is not a part if it is “a separate and distinct commercial entity.” *Bauerhin*, 110 F.3d at 779.

The subject surgical tray is a separate and distinct commercial article that serves an independent function or purpose from the LongStop Drills. The function and purpose of the surgical tray is to hold the drill shanks during dental surgery. However, because a user would be able to operate the LongStop Drills without the surgical tray, it is not essential and necessary to the functioning and purpose of the LongStop Drills. To the extent that the surgical tray is not attached to the LongStop Drills, and that the LongStop Drills will continue to operate without them, it is not a part of the LongStop Drills. Accordingly, we find that the surgical tray is not a part as defined in *Willoughby* and *Pompeo*.

The courts have also considered the nature of “accessories,” and have found that although the HTSUS does not define the term “accessory,” the HTSUS “refers to accessories either in relation to articles and equipment . . . or to the specific article named.” *Rollerblade, Inc. v. United States* (“*Rollerblade*”), 116 F. Supp. 2d 1247, 1253 (Ct. Int’l Trade 2000), *aff’d* 282 F.3d 1349, (Fed Cir. 2002). The terms of heading 9018, HTSUS, include, in relevant part, “Instruments and appliances used in medical, surgical, dental or veterinary sciences, . . . parts and accessories thereof.” The court in *Rollerblade* agreed that the common meaning of the term indicates that “accessories must serve a purpose subordinate to, but also in direct relationship to the thing they ‘accessorize.’” *Id.* at 1253. Applying this definition to the articles under consideration, we find that the surgical tray does not serve a purpose in direct relation to the LongStop Drills, in that it does not contribute to the LongStop Drills’ effectiveness in making a diagnosis, preventing or treating an illness or in surgery. Instead, the surgical tray’s purpose is to hold the drill shanks during surgery to make the selection of the tools easier during the surgery. For these reasons, we find that the surgical tray is not an accessory. Therefore, the surgical tray is not a part or accessory and cannot be classified as a part or accessory under the terms of heading 9018, HTSUS.

¹ The classification of the LongStop Drills in subheading 9018.49.80, HTSUS, is not at issue in this case.

Because the surgical tray is not a part or accessory of the instruments of heading 9018, HTSUS, Note 2(b) to chapter 90 does not apply, and therefore, it cannot be classified under chapter 90. As the surgical tray is not classified in chapter 90, we do not reach the issue of whether it is a part of general use under Note 1(f) to chapter 90. Because the surgical tray is not classifiable in chapter 90, it is not excluded by Note 1(h) to Section XV, HTSUS (Chapter 73).

Heading 7326, HTSUS, provides for “Other articles of iron or steel.” The ENs to heading 7326, state, in relevant part, that this heading covers all iron or steel articles obtained by forging or punching, by cutting or stamping or by other processes such folding, assembling, welding, turning, milling or perforating other than articles included in the preceding headings of this Chapter or covered by Note 1 to Section XV or included in Chapter 82 or 83 or more specifically covered elsewhere in the Nomenclature.” The subject surgical tray is an article made of stainless steel. Because the surgical tray is not more specifically covered elsewhere in the Nomenclature, we conclude, in accordance with GRI 1, that the surgical tray is properly classifiable under heading 7326, HTSUS, which provides for “Other articles of iron or steel.” Specifically, classification is under subheading 7326.90.86, HTSUS, the provision for “Other articles of iron or steel: Other: Other: Other: Other.” This is consistent with Headquarters Ruling H036115, dated November 19, 2008 (classifying a stainless steel metal basket and stainless steel metal cases used in the medical field for the sterilization of various electrical and hand-held medical instruments in heading 7326, HTSUS); NY N019480, dated November 21, 2007 (classifying a stainless steel tray with slots that would be “used for carrying medical devices in hospitals or medical offices” in heading 7326, HTSUS) and NY 873837, dated May 27, 1992 (tubular sterilization containers made of stainless steel with removable top and bottom lids and a tray with 9, 20, or 40 openings for catheters which suspends them when lowered into a pot of boiling water to effect sterilization were classified in heading 7326, HTSUS).

HOLDING:

Under the authority of GRI 1, the subject surgical tray is classified in heading 7326, HTSUS, specifically under subheading 7326.90.86, HTSUS, which provides for “Other articles of iron or steel: Other: Other: Other: Other.” The 2019 column one, general rate of duty is 2.9 percent *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:

NY N177676, dated August 25, 2011, is MODIFIED.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF ONE RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF LATEX RUBBER BOOT
COVERS**

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 latex rubber boot covers.

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 latex rubber boot covers 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 August 2, 2019.

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: Tanya Secor, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0062.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibil-

ity 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 19 U.S.C. §1625(c)(1), this notice advises interested parties that CBP is proposing to revoke 1 ruling letter pertaining to the tariff classification of latex rubber boot covers. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N295514, dated April 25, 2018 (Attachment A), this notice also 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 comment period.

Similarly, pursuant to 19 U.S.C. §1625(c)(2), 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 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 the final decision on this notice.

In NY N295514, CBP classified latex rubber boot covers in subheading 6401.92.9060, HTSUS, which provides for “waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes: other footwear: covering the ankle but not covering the knee: other: other: other.” CBP has reviewed NY N295514 and has determined the ruling letter to be in error. It is now CBP’s position that the latex rubber boot covers are properly classified in subheading 6401.99.30, HTSUS, which provides for “waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes: other footwear: other: other: designed to be worn over, or in

lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather: designed for use without closures.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N295514 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H303063, 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: May 28, 2019

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N295514

April 25, 2018

CLA-2-64:OT:RR:NC:N2:247

CATEGORY: Classification

TARIFF NO.: 6401.92.9060

MR. OMAR ECHEVARRIA
DSV AIR & SEA INC.
100 WALNUT AVENUE, SUITE 405
CLARK, NJ 07066

RE: The tariff classification of footwear from Thailand

DEAR MR. ECHEVARRIA:

In your letter dated March 26, 2018, you requested a tariff classification ruling on behalf of your client Tingley Rubber Corporation. Your samples will be returned.

The submitted samples, identified as Latex Rubber Boot Saver, are unisex, closed toe/closed heel, above-the-ankle, and below-the-knee, pull-on, shoe covers made of 100 percent natural latex rubber. The shoe cover undergoes two latex dips and one acid dip that forms a slip resistant texture. The submitted shoe cover is made of a substantial, stretchy rubber material of the same gauge as many overshoes. In this regard, this office does not find the latex rubber material of the shoe cover to be flimsy. The unlined boots are to be utilized in the food preparation industries.

You state in your letter the boots cover the shoe/foot but will leave the top of the foot mostly exposed. You also claim they do not offer significant protection against water, oil, grease or chemicals. Examination of the covers find they will cover the ankle, do not leave the top of the foot exposed, and will provide protection against water, oil, etc.

You proposed the Latex Rubber Boot Saver boots could be classified under 6402.99.31, Harmonized Tariff Schedule of the United States (HTSUS), the provision for other footwear with rubber or plastic uppers and outer soles, not covering the ankle, and footwear that is not protective, and alternatively, under 6402.99.33, HTSUS, the provision for other footwear with uppers and outer soles of rubber or plastic that is protective footwear.

The footwear is more appropriately classified according to the requirements of heading 6401 which provides for waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole not assembled by stitching, riveting, nailing, screwing, plugging or similar processes. Since the subject articles are described by the heading text, cover the ankle and not the knee, they will be classified as follows.

The applicable subheading for the unisex Latex Rubber Boot Saver covers will be 6401.92.9060, HTSUS, which provides for waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes: other footwear: covering the ankle but not covering the knee: other: other: other. The rate of duty will be 37.5 percent 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 <https://hts.usitc.gov/current>.

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 Stacey Kalkines at stacey.kalkines@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

ATTACHMENT B

HQ H303063
OT:RR:CTF:FTM H303063 TJS
CATEGORY: Classification
TARIFF NO.: 6401.99.30

MR. ROBERT B. SILVERMAN
GRUNFELD, DESIDERIO, LEBOWITZ, SILVERMAN & KLESTATD LLP
599 LEXINGTON AVE, 36TH FLOOR
NEW YORK, NY 10022

RE: Revocation of NY N295514; Classification of the Latex Rubber Boot Saver

DEAR MR. SILVERMAN:

This is in response to your January 31, 2019 letter, filed on behalf of Tingley Rubber Corporation (“Tingley”), requesting modification of New York Ruling Letter (“NY”) N295514, dated April 25, 2018. In NY N295514, U.S. Customs and Border Protection (“CBP”) classified certain disposable latex shoe/boot covers under subheading 6401.92.9060, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes: other footwear: covering the ankle but not covering the knee: other: other: other.”

On November 26, 2018, you filed a request for modification of NY N295514, asserting classification under subheading 6401.99.30, HTSUS, which provides for “waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes: other footwear: other: other: designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather: designed for use without closures.” On January 31, 2019, you amended your request asserting classification under subheading 3926.90.9990, HTSUS, as “other articles of plastics and articles of other materials of headings 3901 to 3914: other: other: other,” or alternatively, under 6401.99.30, HTSUS.

FACTS:

The product at issue is a disposable, ambidextrous, unisex, shoe/boot cover, identified as the Latex Rubber Boot Saver (the “Boot Saver”). The Boot Saver, a product of Thailand, is made of powder-free natural latex rubber with acid-dipped bottoms. The manufacturing process involves aluminum formers being dipped twice into latex and once into dilute acetic acid. The first dip coats the former with latex. The second dip coats only the lower portion of the former with an additional layer of latex to create a durable bottom/sole. The bottom portion is then dipped a third time in dilute acetic acid, which textures the surface for improved slip resistance. The Boot Savers are meant to be worn over regular shoes or boots by people in food processing facilities to protect the facility from cross-contamination. They come in four sizes (medium, large, extra large, and extra extra large) and four colors (yellow, red, blue, and black).

You submitted two samples: an extra large yellow Boot Saver and a large black Boot Saver over a size 13 Tingley brand, Triumph, waterproof boot.

ISSUE:

Whether the Latex Rubber Boot Saver imported by Tingley Rubber Corporation is classified under subheading 3926.90.9990, HTSUS, 6401.99.3000, HTSUS, or 6401.92.9060 HTSUS.

LAW AND ANALYSIS:

Classification of goods under the HTSUS is governed by the General Rules of Interpretation (“GRI”). GRI 1 provides that classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. Where goods cannot be classified solely on the basis of GRI 1, the remaining GRIs will be applied in their appropriate order.

The HTSUS subheadings under consideration are as follows:

- 3926: Other articles of plastics and articles of other materials of headings 3901 to 3914:
- 3926.90: Other:
- 3926.90.99: Other...
- 3926.90.9990: Other...
- * * * *
- 6401: Waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes:
- Other footwear:
- 6401.92: Covering the ankle but not covering the knee:
- Other:
- 6401.92.90: Other...
- 6401.92.9060: Other...
- 6401.99: Other:
- Other:
 - Designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather:
- 6401.99.3000: Designed for use without closures...
- * * * *

Note 2 to Chapter 39 provides, in pertinent part, as follows:

2. This chapter does not cover:

- (q) Articles of section XII (for example, footwear, headgear, umbrellas, sun umbrellas, walking-sticks, whips, riding-crops or parts thereof);

* * * *

Note 1 to Chapter 64 provides, in pertinent part, as follows:

1. This chapter does not cover:

- (a) Disposable foot or shoe coverings of flimsy material (for example, paper, sheeting of plastics) without applied soles. These products are classified according to their constituent material;

* * * *

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

The EN to Chapter 64 provides, in pertinent part, as follows:

GENERAL

With certain **exceptions** (see particularly those mentioned at the end of this General Note) this Chapter covers, under headings 64.01 to 64.05, various types of footwear (including overshoes) irrespective of their shape and size, the particular use for which they are designed, their method of manufacture or the materials of which they are made.

For the purposes of this Chapter, the term “footwear” **does not**, however, **include** disposable foot or shoe coverings of flimsy material (paper, sheeting of plastics, etc.) without applied soles. These products are classified according to their constituent material.

(A) [...] The Chapter includes:

...

(10) Disposable footwear, with applied soles, generally designed to be used only once.

* * * *

Pursuant to Note 1(a) to Chapter 64, a disposable shoe covering made of flimsy material and lacking an applied sole is precluded from classification as footwear of Chapter 64, HTSUS. You argue that pursuant to Note 1(a), the Boot Saver is precluded from classification in Chapter 64, HTSUS, because it is a disposable shoe cover, made of flimsy material, without an applied sole. You therefore assert that the Boot Saver should be classified according to its constituent material under subheading 3926.90.9990, HTSUS.

You argue that the Boot Saver’s material is flimsy because it is designed for limited use and must be disposed of to prevent ripping. You assert that even flimsy products must be durable enough to serve a one-time limited use. To support this, you cite several CBP rulings concerning the classification of Halloween costumes in Chapter 95, HTSUS. We note that the merchandise in those rulings is substantially different than the shoe covers at issue. In fact, CBP has consistently determined that disposable latex shoe covers, similar to the Boot Savers, are not flimsy pursuant to Chapter 64, Note 1(a), HTSUS, despite being intended for a one-time limited use. *See* NY M86014 (Sept. 8, 2006); NY L81039 (Dec. 13, 2004); *and*, NY E81872 (June 8, 1999). Moreover, the Oxford English Dictionary defines “flimsy” as “insubstantial and easily damaged.” *See* <https://en.oxforddictionaries.com/definition/flimsy> (accessed May 15, 2019). The Boot Saver’s latex rubber material is strong and stretchy, and does not tear or rip when pushing a finger through it with little effort. Accordingly, we find that the Boot Saver’s latex rubber material is not flimsy.

As per the General Explanatory Note, Chapter 64 includes disposable footwear, generally designed to be used only once, if it has an applied sole. You argue that the Boot Savers do not have applied soles because they are made from a single component of latex rubber and there are no detachable parts. Whether footwear has an applied sole pursuant to Note 1(a) depends on whether a “line of demarcation” between the outer sole and the upper can be identified. *See* Headquarters Ruling Letter (“HQ”) H246161 (Sept. 12, 2016); HQ H241512 (July 07, 2014); *and*, HQ 956921 (Nov. 22, 1994). The samples show a clear line of demarcation where the outer sole’s rough surface meets the upper’s smooth surface. You cite HQ H241512, which indicated that footwear made of a single material, with no additional, applied layer or covering on the bottom, does not have a line of demarcation distinguishing the sole from the remainder of the item. The Boot Savers, while made from a single material, have two additional, distinguishable, applied layers on the bottoms: a second coating of latex and a textured outer sole. Your product specification sheet even states that “[t]he gap between the 2nd layer of latex and the acid texturing should target 5 mm” and “[t]he lines of the second dip and acid etching should be visually parallel with the shoe bottom edge.” These are clearly noticeable on the samples. Due to the distinguishable outer soles and line of demarcation, we find that the Boot Savers have applied soles.

CBP has consistently determined that one-piece latex shoe/boot covers with roughed up outer soles have applied soles pursuant to Note 1(a) to Chapter 64, HTSUS. *See* NY N171055 (July 12, 2011); NY E85883 (Sept. 13, 1999); *and*, NY E81872 (June 8, 1999). In your request, you cite several rulings including NY N266909, dated August 10, 2015, NY D86071, dated January 20, 1999, and NY N171076, dated June 21, 2011, all of which classify various disposable shoe coverings. In your discussion of NY N266909, you reference the styles KBSB “Super Nonskid, Waterproof Shoe Covers-Super Bootie” and the KBE “Economy Short Wear,” neither of which CBP found classifiable in Chapter 64, HTSUS. However, in that ruling, CBP did classify style KBCP “Extra Durable” in Chapter 64, HTSUS, noting that blue-colored chlorinated polyethylene, which covered all but the top 2.5 inches of the white textile material, was a clearly defined outer sole. We find that the Boot Saver, having a distinct rough outer sole, is more analogous to the KBCP “Extra Durable” than the styles you refer to. Similarly, you cite NY D86071, asserting that the Boot Savers are analogous to latex booties stock #1525Y and #1525B, which were classified under subheading 4016.99.35, HTSUS. However, we note that the Boot Savers, having rough soles, are more akin to stock #LB1250, a latex bootie with a ridged sole that CBP classified under subheading 6401.92.90, HTSUS. In reference to NY N171076, you include pictures of the subject shoe cover. The pictures show no clear line of demarcation, unlike the Boot Savers.

In accordance with the above, we find that Boot Savers are classifiable as footwear in Chapter 64, HTSUS, pursuant to Note 1(a), because they are not flimsy and have applied soles. You argue that the Boot Savers should be classified according to their constituent material under Chapter 39, HTSUS. However, we have determined that the Boot Savers are articles of Section XII as footwear, and are therefore precluded from classification in Chapter 39, HTSUS, by application of Note 2(q).

Because we find that the Boot Saver is classifiable in Chapter 64, HTSUS, we consider your alternative claim that the Boot Saver should be classified under subheading 6401.99.30, HTSUS, as waterproof footwear with uppers

and soles of rubber/plastic which do not cover the ankle. Whether the Boot Saver is classified under subheading 6401.92.9060 or 6401.99.30 depends on whether it covers the ankle. A representative of your firm visited the National Commodity Specialist Division in New York to demonstrate that the Boot Saver did not cover his anklebone when worn over regular shoes. Based on the observation of the National Import Specialist and our own examination of the samples, we find that the Boot Savers do not cover the ankle. Therefore, the Latex Rubber Boot Saver is classified under subheading 6401.99.30, HTSUS.

HOLDING:

By application of GRI 1, we find that the Latex Rubber Boot Saver in NY N295514 is classified under subheading 6401.99.30, HTSUS, which provides for “Waterproof footwear with outer soles and uppers of rubber or plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes: Other footwear: Other: Other: Designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather: Designed for use without closures.” The 2019 column one duty rate is 25% 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 for at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY N295514, dated April 25, 2018 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

AGENCY INFORMATION COLLECTION ACTIVITIES:

Protest

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).

DATES: The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted no later than July 15, 2019 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 PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number (202) 325-0056 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 website 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** (84 FR 6016) on February 25, 2019, 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 1320.8. 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: Protest.

OMB Number: 1651-0017.

Form Number: CBP Form 19.

Current Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: CBP Form 19, *Protest*, is filed to seek the review of a decision of an appropriate CBP officer. This review may be conducted by a CBP officer who participated directly in the underlying decision. This form is also used to request "Further Review," which means a request for review of the protest to be performed by a CBP officer who did not participate directly in the protested decision, or by the Commissioner, or his designee as provided in the CBP regulations.

The matters that may be protested include: The appraised value of merchandise; the classification and rate and amount of duties chargeable; all charges within the jurisdiction of the U.S. Department of Homeland Security; exclusion of merchandise from entry or delivery, or demand for redelivery; the liquidation or reliquidation of an entry; and the refusal to pay a claim for drawback.

The parties who may file a protest or application for further review include: The importer or consignee shown on the entry papers, or their sureties; any person paying any charge or exaction; any person

seeking entry or delivery, or upon whom a demand for redelivery has been made; any person filing a claim for drawback; or any authorized agent of any of the persons described above.

CBP Form 19 collects information such as the name and address of the protesting party, information about the entry, detailed reasons for the protest, and justification for applying for further review.

The information collected on CBP Form 19 is authorized by Sections 514 and 514(a) of the Tariff Act of 1930 and provided for by 19 CFR part 174. This form is accessible at <https://www.cbp.gov/newsroom/publications/forms?title=19>.

Estimated Number of Respondents: 3,750.

Estimated Number of Responses per Respondent: 12.

Estimated Number of Total Annual Responses: 45,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 45,000.

Dated: June 11, 2019.

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

[Published in the Federal Register, June 14, 2019 (84 FR 27794)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Cargo Container and Road Vehicle for Transport Under Customs Seal

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 must be submitted (no later than July 15, 2019) 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 PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number (202) 325-0056 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 website 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** (84 FR 8734) on March 11, 2019, 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 1320.8. 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: Cargo Container and Road Vehicle for Transport under Customs Seal.

OMB Number: 1651–0124.

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: The United States is a signatory to several international Customs conventions and is responsible for specifying the technical requirements that containers and road vehicles must meet to be acceptable for transport under Customs seal. Customs and Border Protection (CBP) has the responsibility of collecting information for the purpose of certifying containers and vehicles for international transport under Customs seal. A certification of compliance facilitates the movement of containers and road vehicles across international territories. The procedures for obtaining a certification of a container or vehicle are set forth in 19 CFR part 115.

Estimated Number of Respondents: 25.

Estimated Number of Annual Responses per Respondent: 120.

Estimated Number of Total Annual Responses: 3,000.

Estimated Time per Response: 3.5 hours.

Estimated Total Annual Burden Hours: 10,500.

Dated: June 11, 2019.

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

[Published in the Federal Register, June 14, 2019 (84 FR 27793)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

**Application-Permit-Special License
Unlading-Lading-Overtime Services**

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 must be submitted (no later than July 19, 2019) 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 PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number (202) 325-0056 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 website 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** (84 FR 7098) on March 1, 2019, 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 1320.8. 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-Permit-Special License Unlading-Lading-Overtime Services.

OMB Number: 1651-0005.

Form Number: CBP Form 3171.

Action: CBP proposes to extend the expiration date of this information collection with no change to the estimated burden hours or to CBP Form 3171.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: The Application-Permit-Special License Unlading-Lading-Overtime Services (CBP Form 3171) is used by commercial carriers and importers as a request for permission to unlade imported merchandise, baggage, or passengers. It is also used to request overtime services from CBP officers in connection with lading or unlading of merchandise, or the entry or clearance of a vessel, including the boarding of a vessel for preliminary supplies, ship's stores, sea stores, or equipment not to be reladen. CBP Form 3171 is provided for 19 CFR 4.10, 4.30, 4.39, 4.91, 10.60, 24.16, 122.38, 123.8, 146.32 and 146.34. This form is accessible at: <https://www.cbp.gov/newsroom/publications/forms?title=3171>.

Estimated Number of Respondents: 1,500.

Estimated Number of Annual Responses per Respondent: 266.

Estimated Number of Total Annual Responses: 399,000

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 53,187.

Dated: June 13, 2019.

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

AGENCY INFORMATION COLLECTION ACTIVITIES:**Customs-Trade Partnership Against Terrorism (C-TPAT) and the Trusted Trader Program; Correction**

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; correction.

SUMMARY: On June 5, 2019, U.S. Customs and Border Protection (CBP) published a document in the **Federal Register** requesting comments from the public and affected agencies on Customs-Trade Partnership Against Terrorism (C-TPAT) and the Trusted Trader Program. That document contained an error in the subject heading. This document corrects the June 5, 2019 document to reflect the correct subject heading.

FOR FURTHER INFORMATION CONTACT: Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number (202) 325-0056 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 website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION:**Background**

On June 5, 2019, U.S. Customs and Border Protection (CBP) published in the **Federal Register** a document requesting comments from the public and affected agencies on Customs-Trade Partnership Against Terrorism (C-TPAT) and the Trusted Trader Program. 84 FR 26130. That document contained an error in the subject heading by referring to the “Trusted Trader Program” as the “Trusted Traveler Program.” This correction is being issued to clarify that the agency information collection relates to the Customs-Trade Partnership Against Terrorism (C-TPAT) and the Trusted Trader Program.

Correction

In the **Federal Register** of June 5, 2019, in the document at 84 FR 26130, in the first column, correct the subject heading to read:

Subject Heading: Agency Information Collection Activities: Customs-Trade Partnership Against Terrorism (C-TPAT) and the Trusted Trader Program.

Dated: June 13, 2019.

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

[Published in the Federal Register, June 19, 2019 (84 FR 28572)]