

# U.S. Customs and Border Protection



## **PROPOSED MODIFICATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION AND STATUS UNDER THE AFRICAN GROWTH AND OPPORTUNITY ACT OF FRUIT PRODUCTS CONTAINING PINEAPPLE AND MANGO WITH LIME JUICE AND PINEAPPLE AND BANANA WITH LIME JUICE**

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

**ACTION:** Notice of proposed modification of two ruling letters and revocation of treatment relating to the tariff classification of fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (“CBP”) intends to modify two ruling letters concerning tariff classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) and status under the African Growth and Opportunity Act (“AGOA”), of fruit products containing pineapple and mango with lime juice and pineapple and banana with lime juice. 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 June 14, 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, 10<sup>th</sup> 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:** Tatiana Salnik Matherne, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0351.

**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 modify two ruling letters pertaining to the tariff classification and status under the AGOA of fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice. Although in this notice CBP is specifically referring to New York Ruling Letter (NY) N296311, dated May 18, 2018 (Attachment A); and NY N293259, dated February 7, 2018 (Attachment B), 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 two identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the 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 N296311, dated May 18, 2018, CBP classified fruit products containing pineapple and mango with lime juice and pineapple and banana with lime juice, in heading 2008, HTSUS, and specifically in subheading 2008.97.90, HTSUS, providing for “Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Other, including mixtures other than those of subheading 2008.19: Mixtures: Other.” Further, in NY N296311 CBP determined that the fruit products at issue are not entitled to duty-free treatment under the AGOA.

In NY N293259, dated February 7, 2018, CBP classified fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice in heading 2008, specifically in subheading 2008.97.10, HTSUS, providing for “Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Other, including mixtures other than those of subheading 2008.19: Mixtures: In airtight containers and not containing apricots, citrus fruits, peaches or pears.”

CBP has reviewed NY N296311 and NY N293259, and has determined these ruling letters to be in error. It is now CBP’s position that the fruit products at issue are properly classified in subheading 0813.50.00, HTSUS, which provides for “Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter: Mixtures of nuts or dried fruits of this chapter.” Further, it is now CBP’s position that the fruit products at issue are entitled to duty-free treatment under the AGOA.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to modify NY N293259 and NY N296311, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H298338, set forth as Attachment C to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: April 19, 2019

YULIYA A. GULIS  
*for*

MYLES B. HARMON,  
*Director*

*Commercial and Trade Facilitation Division*

Attachments

## ATTACHMENT A

N296311

May 18, 2018

CLA-2-08:OT:RR:NC:N2:228

CATEGORY: Classification

TARIFF NO.: 0813.50.0020; 2008.97.9094

MS. JANET FOREST  
J. FOREST CONSULTING  
5604 CHEVY CHASE PARKWAY, NW  
WASHINGTON, DC 20015-2520

RE: The tariff classification and status under the African Growth and Opportunity Act (AGOA) of fruit products from Ghana

DEAR MS. FOREST

In your letter dated April 20, 2018 on behalf of your client, HPW AG, you requested a ruling on the tariff classification and status of five fruit products under the African Growth and Opportunity Act (AGOA).

Ingredients breakdowns, a narrative description of the manufacturing process, a manufacturing flowchart, and samples of five products accompanied your letter. The samples were examined and discarded. Additional information was provided on April 30, 2018 via email pertaining to the value of the materials, and the direct costs of processing operations for determining the eligibility of the fruit products under the AGOA.

The mango/coconut products are said to be 95 percent mango, and 5 percent coconut. The pineapple/passion fruit products are said to be 98 percent pineapple, and 2 percent passion fruit. The mango/passion fruit products are said to be 96 percent pineapple, and 4 percent passion fruit. The pineapple/mango with lime juice products are said to be 49 percent pineapple, 49 percent mango, and 2 percent lime juice. The pineapple/banana with lime juice products are said to be 49 percent pineapple, 49 percent banana, and 2 percent lime juice.

The fruit products will be imported in the shape of round balls for retail sale in airtight printed packaging weighing 2.5 grams, net or 5 grams, net, depending on the customer request. Some of the 2.5 gram, and 5 gram balls will be bulk packed in an airtight bag in Ghana and later coated with chocolate in the U.S.

The product ingredients are locally grown in Ghana. The manufacturing process for all of the products consists of washing, peeling, cutting; drying the fruit in a drying tunnel at temperatures between 60 and 70 degrees Celsius for approximately 14 to 18 hours; mixing, grinding and pressing the fruit into round balls that are each individually wrapped in cellophane.

The applicable subheading for the mango/coconut products, pineapple/passion products, and mango/passion fruit products will be 0813.50.0020, Harmonized Tariff Schedule of the United States (HTSUS), which provides for fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter . . . mixtures of nuts or dried fruits of this chapter . . . containing only fruit. The general duty rate will be 14 percent ad valorem.

The applicable subheading for the pineapple/mango with lime juice products, and the pineapple/banana with lime juice products will be 2008.97.9094, HTSUS, which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or

other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19 . . . mixtures . . . other . . . other . . . other. The general rate of duty will be 14.9 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 World Wide Web at <https://hts.usitc.gov/current>.

General Note 16(b), HTSUS, sets forth the criteria for determining whether a good is an eligible article under the AGOA. General Note 16(b), HTSUS, states, in pertinent part, that Articles provided for in a provision for which a rate of duty appears in the “Special” subcolumn followed by the symbol “D” in chapters 1 through 97 of the tariff schedule are those designated by the President to be eligible articles pursuant to section 111(a) of the AGOA and section 506A of the Trade Act of 1974 (“the 1974 Act”).

In order to qualify for duty-free treatment under the AGOA, merchandise imported directly into the customs territory of the United States must be: (i) the growth, product or manufacture of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of this note, and (ii) the sum of — (A) the cost or value of the materials produced in one or more designated beneficiary Sub-Saharan African countries, plus (B) the direct costs of processing operations performed in the designated beneficiary sub-Saharan African country or any two or more designated beneficiary sub-Saharan African countries that are members of the same association of countries which is treated as one country under section 507(a)2 of the 1974 Act, is not less than 35 percent of the appraised value of such article at the time it is entered.

With regard to the value-content, you provided the following information for the fruit products costing. Approximately 69.4 – 71.2 percent of the total cost of production is attributed to the cost or value of the materials produced in Ghana, and approximately 19.9 - 21.2 percent of the total cost of production is attributed to the direct costs of processing operations performed in Ghana. Therefore, the sum of the cost or value of materials produced in Ghana, plus the direct costs of processing operations performed in Ghana is not less than 35 percent of the appraised value of the articles at the time they are entered.

Based on the information submitted, the fruit products classifiable under subheading 0813.50.0020, HTSUS, are products of Ghana, and will be entitled to duty-free treatment under the African Growth and Opportunity Act (AGOA/“D”), upon satisfaction of the above-described requirements and compliance with all applicable regulations. The fruit products classifiable under subheading 2008.97.9094, HTSUS, are not entitled to duty-free treatment under AGOA. There is no “D” AGOA indicator in the special rate of duty column of the HTSUS. Please be aware that the administration of AGOA is subject to modification, which may affect the status of your transaction at the time of entry for consumption or withdrawal from warehouse. Public notification of any changes generally would be published in the Federal Register, and may also be reflected on our Web site at [www.cbp.gov](http://www.cbp.gov).

This merchandise is subject to The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (The Bioterrorism Act), which is regulated by the Food and Drug Administration (FDA). Information on the Bioterrorism Act can be obtained by calling FDA at 301-575-0156, or at the Web site [www.fda.gov/oc/bioterrorism/bioact.html](http://www.fda.gov/oc/bioterrorism/bioact.html).

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 Bruce N. Hadley, Jr. at [bruce.hadleyjr@cbp.dhs.gov](mailto:bruce.hadleyjr@cbp.dhs.gov).

*Sincerely,*

STEVEN A. MACK

*Director*

*National Commodity Specialist Division*

ATTACHMENT B

N293259

February 7, 2018

CLA-2-08:OT:RR:NC:N2:228

CATEGORY: Classification

TARIFF NO.: 0804.50.8010; 0813.50.0020;  
2008.97.1040

Ms. JANET FOREST  
J. FOREST CONSULTING  
5604 CHEVY CHASE PARKWAY, NW  
WASHINGTON, DC 20015-2520

RE: The tariff classification and status under the African Growth and Opportunity Act (AGOA) of fruit products from Ghana

DEAR Ms. FOREST:

In your letter dated January 5, 2018 on behalf of your client, HPW AG, you requested a ruling on the tariff classification and status under the African Growth and Opportunity Act (AGOA).

Ingredients breakdowns, a narrative description of the manufacturing process, a manufacturing flowchart, and samples of five products accompanied your letter. The samples were examined and discarded. Additional information was provided pertaining to the value of materials, and the direct costs of processing operations for determining the eligibility of the fruit products under the AGOA.

The fruit products are made in two sizes. The flat rectangular shaped product is 2  $\frac{7}{8}$ " long, 1  $\frac{3}{8}$ " wide, and  $\frac{1}{4}$ " thick weighing 20 grams, net. The flat squared shaped product is 1  $\frac{3}{8}$ " long, 1  $\frac{3}{8}$ " wide, and  $\frac{1}{4}$ " thick weighing 10 grams, net.

The mango/coconut products are said to be 95 percent mango, and 5 percent coconut. The pineapple/passion products are said to be 98 percent pineapple, and 2 percent passion fruit. The pineapple/mango with lime juice products are said to be 49 percent pineapple, 49 percent mango, and 2 percent lime juice. The pineapple/banana with lime juice products are said to be 49 percent pineapple, 49 percent banana, and 2 percent lime juice. The mango products are said to be 100 percent mangoes.

The product ingredients are locally grown in Ghana. The manufacturing process for all of the products consists of washing, peeling, cutting; drying the fruit in a drying tunnel at temperatures between 60 and 70 degrees Celsius for approximately 14 to 18 hours; mixing, grinding and pressing the fruit into rectangles and squares that are each individually wrapped in cellophane.

In your letter, you suggested that the fruit products, consisting of mixtures of fruit, are classified under subheading 2008.97.1040 Harmonized Tariff Schedule of the United States (HTSUS), which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19 . . . mixtures . . . in airtight containers and not containing apricots, citrus fruits, peaches or pears . . . other. We agree that pineapple/mango with lime juice, and pineapple/banana with lime juice products are

classified under this subheading. However, based on the ingredients and manufacturing process the mango/coconut and pineapple/passion fruit products will be classified elsewhere.

You also suggested that fruit products, made from a single fruit, are classified under subheading 2008.99.4000, HTSUS, which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19. . . other . . . mangoes. However, based on the manufacturing process the mango-only products will be classified elsewhere.

The applicable subheading for the mango-only products will be 0804.50.8010, HTSUS, which provides for dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh or dried . . . guavas, mangoes and mangosteens . . . dried . . . mangoes. The general duty rate will be 1.5 cents per kilogram.

The applicable subheading for the mango/coconut, and pineapple/passion fruit products will be 0813.50.0020, HTSUS, which provides for fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter . . . mixtures of nuts or dried fruits of this chapter . . . containing only fruit. The general duty rate will be 14 percent ad valorem.

The applicable subheading for the pineapple/mango with lime juice, and pineapple/banana with lime juice products will be 2008.97.1040, HTSUS, which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19 . . . mixtures . . . in airtight containers and not containing apricots, citrus fruits, peaches or pears . . . other. The general duty rate will be 5.6 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 World Wide Web at <https://hts.usitc.gov/current>.

General Note 16(b), HTSUS, sets forth the criteria for determining whether a good is an eligible article under the AGOA. General Note 16(b), HTSUS, states, in pertinent part, that Articles provided for in a provision for which a rate of duty appears in the “Special” subcolumn followed by the symbol “D” in chapters 1 through 97 of the tariff schedule are those designated by the President to be eligible articles pursuant to section 111(a) of the AGOA and section 506A of the Trade Act of 1974 (“the 1974 Act”).

In order to qualify for duty-free treatment under the AGOA, merchandise imported directly into the customs territory of the United States must be: (i) the growth, product or manufacture of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of this note, and (ii) the sum of — (A) the cost or value of the materials produced in one or more designated beneficiary Sub-Saharan African countries, plus (B) the direct costs of processing operations performed in the designated beneficiary sub-Saharan African country or any two or more designated beneficiary sub-Saharan African countries that are members of the same association of countries which is treated as one country under section 507(a)2 of the 1974 Act, is not less than 35 percent of the appraised value of such article at the time it is entered.

With regard to the value-content, you provided the following information for the fruit products costing. Approximately 65 percent of the total cost of



production is attributed to the cost or value of the materials produced in Ghana, and approximately 19 percent of the total cost of production is attributed to the direct costs of processing operations performed in Ghana. Therefore, the sum of the cost or value of materials produced in Ghana, plus the direct costs of processing operations performed in Ghana is not less than 35 percent of the appraised value of the articles at the time they are entered.

Based on the information submitted, the fruit products would be “products of” Ghana, and they would satisfy the 35 percent value-content requirement for AGOA purposes. Accordingly, the subject goods, classifiable under sub-headings 0804.50.8010, 0813.50.0020, and 2008.97.1040, HTSUS, are products of Ghana, and will be entitled to duty-free treatment under the African Growth and Opportunity Act (AGOA/“D”), upon satisfaction of the above-described requirements and compliance with all applicable regulations. Please be aware that the administration of AGOA is subject to modification, which may affect the status of your transaction at the time of entry for consumption or withdrawal from warehouse. Public notification of any changes generally would be published in the Federal Register, and may also be reflected on our Web site at [www.cbp.gov](http://www.cbp.gov).

This merchandise is subject to The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (The Bioterrorism Act), which is regulated by the Food and Drug Administration (FDA). Information on the Bioterrorism Act can be obtained by calling FDA at 301-575-0156, or at the Web site [www.fda.gov/oc/bioterrorism/bioact.html](http://www.fda.gov/oc/bioterrorism/bioact.html).

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 Bruce N. Hadley, Jr. at [bruce.hadleyjr@cbp.dhs.gov](mailto:bruce.hadleyjr@cbp.dhs.gov).

*Sincerely,*

STEVEN A. MACK

*Director*

## ATTACHMENT C

HQ H298338

CLA-2 OT:RR:CTF:FTM H298338 TSM

CATEGORY: Classification

TARIFF NO.: 0813.50.00

MS. JAN FOREST

J. FOREST CONSULTING

5604 CHEVY CHASE PARKWAY, NW

WASHINGTON, DC 20015

RE: Modification of NY N296311 and NY N293259; Tariff classification and status under the African Growth and Opportunity Act of fruit products from Ghana

DEAR MS. FOREST:

This is in reference to New York Ruling Letter (NY) N296311, issued to J. Forest Consulting on May 18, 2018, concerning the tariff classification of certain fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the subject merchandise under subheading 2008.97.90, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Other, including mixtures other than those of subheading 2008.19: Mixtures: Other.” The fruit products at issue, classified under subheading 2008.97.90, HTSUS, were determined not to be entitled to duty-free treatment under the African Growth and Opportunity ACT (AGOA).

This is also in reference to NY N293259, issued to J. Forest Consulting on February 7, 2018. In that ruling, CBP classified the fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice under subheading 2008.97.10, HTSUS, which provides for “Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Other, including mixtures other than those of subheading 2008.19: Mixtures: In airtight containers and not containing apricots, citrus fruits, peaches or pears.” The fruit products at issue, classified under subheading 2008.97.10, HTSUS, were determined to be entitled to duty free treatment under the AGOA.

Upon additional review, we have found NY N296311 to be incorrect with respect to the tariff classification and status under the AGOA of the fruit products containing pineapple/mango with lime juice and pineapple/banana with lime juice. We have also found NY N293259 to be incorrect with regard to the tariff classification of the fruit products containing pineapple/mango with lime juice and pineapple/banana with lime juice. The tariff classification of the other products at issue in those rulings, as well as their status under the AGOA, are not at issue here. For the reasons set forth below, we hereby modify NY N296311 with respect to the tariff classification and status under the AGOA of the fruit products containing pineapple/mango with lime juice and pineapple/banana with lime juice. We also modify NY N293259 with respect to the tariff classification of the fruit products containing pineapple/mango with lime juice and pineapple/banana with lime juice.

**FACTS:**

NY N296311, describes the subject merchandise as follows:

The pineapple/mango with lime juice products are said to be 49 percent pineapple, 49 percent mango, and 2 percent lime juice. The pineapple/banana with lime juice products are said to be 49 percent pineapple, 49 percent banana, and 2 percent lime juice.

The fruit products will be imported in the shape of round balls for retail sale in airtight printed packaging weighing 2.5 grams, net or 5 grams, net, depending on the customer request. Some of the 2.5 gram, and 5 gram balls will be bulk packed in an airtight bag in Ghana and later coated with chocolate in the U.S.

The product ingredients are locally grown in Ghana. The manufacturing process for all of the products consists of washing, peeling, cutting; drying the fruit in a drying tunnel at temperatures between 60 and 70 degrees Celsius for approximately 14 to 18 hours; mixing, grinding and pressing the fruit into round balls that are each individually wrapped in cellophane.

The applicable subheading for the pineapple/mango with lime juice products, and the pineapple/banana with lime juice products will be 2008.97.9094, HTSUS, which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19 . . . mixtures . . . other . . . other . . . other.

\* \* \*

The fruit products classifiable under subheading 2008.97.9094, HTSUS, are not entitled to duty-free treatment under AGOA.

NY N293259, describes the subject merchandise as follows:

The pineapple/mango with lime juice products are said to be 49 percent pineapple, 49 percent mango, and 2 percent lime juice. The pineapple/banana with lime juice products are said to be 49 percent pineapple, 49 percent banana, and 2 percent lime juice.

The product ingredients are locally grown in Ghana. The manufacturing process for all of the products consists of washing, peeling, cutting; drying the fruit in a drying tunnel at temperatures between 60 and 70 degrees Celsius for approximately 14 to 18 hours; mixing, grinding and pressing the fruit into rectangles and squares that are each individually wrapped in cellophane.

The applicable subheading for the pineapple/mango with lime juice, and pineapple/banana with lime juice products will be 2008.97.1040, HTSUS, which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19 . . . mixtures . . . in airtight containers and not containing apricots, citrus fruits, peaches or pears . . . other.

\* \* \*

Based on the information submitted, the fruit products would be “products of” Ghana, and they would satisfy the 35 percent value-content requirement for AGOA purposes. Accordingly, the subject goods, classifiable under subheading 2008.97.1040, HTSUS, are products of Ghana, and will be entitled to duty-free treatment under the African Growth and Opportunity Act (AGOA/“D”), upon satisfaction of the above-described requirements and compliance with all applicable regulations.

**ISSUE:**

What is the tariff classification of the subject fruit products containing pineapple/mango with lime juice, and pineapple/banana with lime juice?

**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.

General Note 16, HTSUS, provides in relevant parts as follows:

Products of Countries Designated as Beneficiary Countries under the African Growth and Opportunity Act (AGOA).

- (a) The following sub-Saharan African countries, having been designated as beneficiary sub-Saharan African countries for purposes of the African Growth and Opportunity Act (AGOA), have met the requirements of the AGOA and, therefore, are to be afforded the tariff treatment provided in this note, shall be treated as beneficiary sub-Saharan African countries for purposes of this note:

\* \* \*

Republic of Ghana

\* \* \*

- (b) Articles provided for in a provision for which a rate of duty appears in the “Special” subcolumn followed by the symbol “D” in chapters 1 through 97 of the tariff schedule are those designated by the President to be eligible articles pursuant to section 111(a) of the AGOA and section 506A of the Trade Act of 1974 (“the 1974 Act”). Whenever an eligible article which is a good of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of this note is imported directly into the customs territory of the United States, such article shall be entitled to receive the duty-free treatment provided for herein, without regard to the limitations on preferential treatment of eligible articles in section 503(c)(2)(A) of the 1974 Act, provided that such good —

- (i) is the growth, product or manufacture of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of this note, and
- (ii) the sum of —
  - (A) the cost or value of the materials produced in one or more designated beneficiary sub-Saharan African countries, plus
  - (B) the direct costs of processing operations performed in the designated beneficiary sub-Saharan African country or any two or more designated beneficiary sub-Saharan African countries that are members of the same association of countries which is treated as one country under section 507(a)2 of the 1974 Act, is not less than 35 per centum of the appraised value of such article at the time it is entered. If the cost or value of the materials produced in the customs territory of the United States is included with respect to an eligible article, an amount not to exceed 15 per centum of the appraised value of such article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in clause (ii)(B) above. No article or material of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of this note and receiving the tariff treatment specified in this note shall be eligible for such duty-free treatment by virtue of having merely undergone simple combining or packing operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

\* \* \*

In addition, in interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs 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 General EN to Chapter 8 provides, in pertinent part, the following:

This Chapter covers fruit, nuts and peel of citrus fruit or melons (including watermelons), generally intended for human consumption (whether as presented or after processing). They may be fresh (including chilled), frozen (whether or not previously cooked by steaming or boiling in water or containing added sweetening matter) or dried (including dehydrated, evaporated or freeze-dried); **provided** they are unsuitable for immediate consumption in that state, they may be provisionally preserved (e.g., by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions).

\* \* \*

Fruit and nuts of this Chapter may be whole, sliced, chopped, shredded, stoned, pulped, grated, peeled or shelled.

It should be noted that homogenisation, by itself, does not qualify a product of this Chapter for classification as a preparation of Chapter 20.

\* \* \*

The EN to heading 08.13 provides in relevant part as follows:

**(A) Dried fruit.**

This heading includes dried fruits which when fresh are classified in headings 08.07 to 08.10. They are prepared either by direct drying in the sun or by industrial processes (e.g., tunnel-drying).

The fruits most commonly processed in this way are apricots, prunes, apples, peaches and pears. Dried apples and pears are used for the manufacture of cider or perry as well as for culinary purposes. With the exception of prunes, the fruits are usually halved or sliced, and stoned, cored or seeded. They may also be presented (particularly in the case of apricots and prunes) in the form of slices or blocks of pulp, dried or evaporated.

The heading covers tamarind pods. It also includes tamarind pulp, without sugar or other substances added and not otherwise processed, with or without seeds, strings or pieces of the endocarp.

**(B) Mixtures of nuts or dried fruits.**

The heading also covers all mixtures of nuts or dried fruits of this Chapter (including mixtures of nuts or dried fruits falling in the same heading). It therefore includes mixtures of fresh or dried nuts, mixtures of dried fruits (excluding nuts) and mixtures of fresh or dried nuts and dried fruits. These mixtures are often presented in boxes, cellulose packets, etc.

Certain dried fruits or mixtures of dried fruits of this heading may be put up (e.g., in sachets) for making herbal infusions or herbal “teas”. These products remain classified here.

However, the heading **excludes** such products consisting of a mixture of one or more of the dried fruits of this heading with plants or parts of plants of other Chapters or with other substances such as one or more plant extracts (generally **heading 21.06**).

\* \* \*

The HTSUS provisions under consideration are as follows:

0813	Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter:
0813.50.00	Mixtures of nuts or dried fruits of this chapter * * *
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: * * *
	Other, including mixtures other than those of subheading 2008.19: * * *
2008.97	Mixtures:

2008.97.10	In airtight containers and not containing apricots, citrus fruits, peaches or pears * * *
2008.97.90	Other * * *

Upon review, we noted that the pineapple/mango and pineapple/banana fruit products at issue are dried in a drying tunnel at temperatures between 60 and 70 degrees Celsius for approximately 14 to 18 hours. Online research shows that typical fruit drying temperatures range between 140 and 158 degrees Fahrenheit (corresponding to 60 – 70 degrees Celsius), and typical fruit drying times range between 6 and 36 hours.<sup>1</sup> Accordingly, we find that the fruit products at issue are dried fruit products of heading 0813, HTSUS, which provides for “Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter.” We note that although in NY N296311 and NY N293259 these products were classified under heading 2008, HTSUS, as “products otherwise prepared or preserved,” upon additional review we find that the record does not support a conclusion that they have been “otherwise prepared or preserved” beyond drying. *See also* NY I81943, dated June 7, 2002 (classifying fruit products containing apricot, blackberry, blueberry, passion fruit, raspberry, strawberry, cherry and apple, dried at a temperature of 55 degrees Celsius for 12 hours, under heading 0813, HTSUS).

Based on the foregoing, we conclude that the pineapple/mango and pineapple/banana fruit products at issue are classified in heading 0813, HTSUS, and specifically in subheading 0813.50.00, HTSUS, which provides for “Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter: Mixtures of nuts or dried fruits of this chapter.”

We next consider whether the products at issue are entitled to duty-free treatment under the AGOA. General Note 16(a), referenced above, lists the sub-Saharan African countries which have been designated as beneficiaries for purposes of the AGOA. One of the designated beneficiaries is the Republic of Ghana. Further, General Note 16(b) states in relevant part that articles provided for in a provision for which a rate of duty appears in the “Special” subcolumn followed by the symbol “D” are eligible for preferential treatment, provided that those articles are: (i) the growth, product or manufacture of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of note 16, and (ii) the sum of - (A) the cost or value of the materials produced in one or more designated beneficiary Sub-Saharan African countries, plus (B) the direct costs of processing operations performed in the designated beneficiary sub-Saharan African country, is not less than 35 percent of the appraised value of such article at the time it is entered.

The pineapple/mango and pineapple/banana fruit products at issue are classified under subheading 0813.50.00, HTSUS, which is a provision for which a rate of duty of “Free” appears in the “Special” subcolumn followed by the symbol “D.” Further, based on the information provided, we find that (1) the fruit products are produced in Ghana and (2) approximately 69.4 – 71.2 percent of the total cost of production is attributed to the cost or value of the materials produced in Ghana, and approximately 19.9 - 21.2 percent of the

<sup>1</sup> <http://www.cals.uidaho.edu/edcomm/pdf/pnw/pnw0397.pdf>

total cost of production is attributed to the direct costs of processing operations performed in Ghana. Therefore, the sum of the cost or value of materials produced in Ghana, plus the direct costs of processing operations performed in Ghana, is not less than 35 percent of the appraised value of the subject fruit products at the time they are entered.

Based on the foregoing, we conclude that the pineapple/mango and pineapple/banana fruit products at issue, classified under subheading 0813.50.00, HTSUS, are products of Ghana and will be entitled to duty-free treatment under the African Growth and Opportunity Act (AGOA/“D”), upon satisfaction of the above-described requirements and compliance with all applicable regulations.

**HOLDING:**

By application of GRI 1, we find that the pineapple/mango and pineapple/banana fruit products at issue are classified in heading 0813, HTSUS. Specifically, they are classified in subheading 0813.50.00, HTSUS, which provides for “Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter: Mixtures of nuts or dried fruits of this chapter.” The 2018 column one, general rate of duty is 14%. The pineapple/mango and pineapple/banana fruit products at issue will be entitled to duty-free entry upon satisfaction of the relevant AGOA requirements.

**EFFECT ON OTHER RULINGS:**

NY N296311, dated May 18, 2018, is hereby MODIFIED with regard to the tariff classification and preferential treatment under the AGOA of fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice. NY N293259, dated February 7, 2018, is hereby MODIFIED with regard to the tariff classification of fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice.

*Sincerely,*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*



**PROPOSED REVOCATION OF THREE RULING LETTERS  
AND PROPOSED REVOCATION OF TREATMENT  
RELATING TO THE TARIFF CLASSIFICATION OF TEXTILE  
CAR COVERS**

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

**ACTION:** Notice of proposed revocation of three ruling letters and proposed revocation of treatment relating to the tariff classification of textile car 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 three ruling letters concerning tariff classification of textile car 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 June 14, 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, 10<sup>th</sup> 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:** Parisa J. Ghazi, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0272.

**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 three ruling letters pertaining to the tariff classification of textile car covers. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) 864763, dated July 8, 1991 (Attachment A), NY 866826, dated September 20, 1991 (Attachment B), and Headquarters Ruling Letter (“HQ”) 088040, dated January 16, 1991 (Attachment C), 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 three identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the 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 864763, NY 866826, and HQ 088040, CBP classified textile car covers in heading 8708, HTSUS, specifically in subheading 8708.99.50, HTSUS, which provided for “Parts and accessories of the motor vehicles of headings 8701 to 8705: Other parts and accessories: Other: Other: Other.” CBP has reviewed NY 864763, NY 866826, and HQ 088040 and has determined the ruling letters to be in error. It is now CBP’s position that textile car covers are properly classified, in heading 6307, HTSUS, specifically in subheading 6307.90.98, HTSUS, which provides for “Other made up articles, including dress patterns: Other: Other: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY 864763, NY 866826, and HQ 088040, insofar as the textile covers are concerned, and to revoke or modify any other ruling not specifically

identified to reflect the analysis contained in the proposed HQ H260066, set forth as Attachment D to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: April 30, 2019

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

Attachments

## ATTACHMENT A

NY 864763

July 8, 1991

CLA-2-87:S:N:N1:101-864763

CATEGORY: Classification

TARIFF NO.: 8708.99.5085

MR. MARK SOMMER

2 POPPYTRAIL

ROLLING HILLS, CA 90274

RE: The tariff classification of car covers from Indonesia

DEAR MR. SOMMER:

In your letter dated June 24, 1991 you requested a tariff classification ruling.

The imported product is a car cover made primarily of nylon material, with elastic straps and a leather piece. You indicate that the cover is specifically designed and fitted to cover the windows and roof area of a Chevrolet Corvette automobile. The cover is affixed to the automobile by means of the elastic straps with VELCRO fasteners.

The applicable subheading for the subject car covers will be 8708.99.5085, Harmonized Tariff Schedule of the United States (HTS), which provides for other parts and accessories of motor vehicles. The rate of duty will be 3.1 percent ad valorem.

Articles classifiable under subheading 8708.99.5085, HTS, which are products of Indonesia are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations.

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

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

*Sincerely,*

JEAN F. MAGUIRE  
*Area Director*  
*New York Seaport*

ATTACHMENT B

NY 866826

September 20, 1991

CLA-2-87:S:N:N1:101-866826

CATEGORY: Classification

TARIFF NO.: 8708.99.5085

MR. SANDY WONG  
KOCHIU PACIFIC (S) PTE. LTD.  
34 GENTING LANE  
#03-03A KHENG SENG BLDG.  
SINGAPORE 1334

RE: The tariff classification of car covers from Singapore

DEAR MR. WONG:

In your letter dated August 7, 1991 you requested a tariff classification ruling. You have submitted descriptive literature and samples of the fabric material. The fabric is produced in Taiwan and it is sewn together in Singapore.

The imported merchandise is car covers made of plastic related non-woven material. Sample (A) is the material for a polypropylene cover, sample (B) is the material for a vinyl car cover, and sample (C) is the material for a polyester/nylon car cover. The finished covers have a tough protective outer layer and a soft reinforced inner layer to protect the vehicle's finish.

The literature states that the covers come in eight sizes to fit various cars, including sports cars and classic cars. The car covers fit over the entire body of the vehicle (including the wheels), have electronically welded seams, have heat and air vents, and are completely waterproof. The covers feature a patented tie-down system with front and back elastic hooked ropes for secure fitting to the vehicle. The merchandise is used to protect the car from rain, snow, sun, dirt and various pollutants.

The applicable subheading for the car covers will be 8708.99.5085, Harmonized Tariff Schedule of the United States (HTS), which provides for other parts and accessories of motor vehicles. The rate of duty will be 3.1 percent ad valorem.

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

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

*Sincerely,*

JEAN F. MAGUIRE  
*Area Director*  
*New York Seaport*

## ATTACHMENT C

HQ 088040

January 16, 1991

CLA-2:CO:R:C:G 088040 SR

CATEGORY: Classification

TARIFF NO.: 8708.99.5090

MR. R. P. BOYD  
HENNIG, INC.  
P.O. BOX 4599  
ROCKFORD, ILLINOIS 61110-4599

RE: Automobile cover

DEAR MR. BOYD:

This is in reference to your letter dated September 27, 1990, requesting the tariff classification of an automobile sun protection system under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). The merchandise is produced in Germany.

**FACTS:**

The merchandise at issue is an automobile sun protection system called the Car-Shadow. The Car-Shadow is described as a weather protection system for automobiles, vans, and trucks. The apparatus is permanently mounted to the vehicle. The inquirer states that the product is suited to those areas of the country that are subject to extreme heat caused by the hot, bright sun. It is stated that the Car-Shadow can reduce interior heat in a vehicle by as much as 30 degrees Celsius (54 degrees Fahrenheit). It also helps protect the upholstery from fading, keeps the steering wheel from getting hot, and lessens the chances of dashboard cracking due to the continual exposure to heat buildup in the vehicle. In cold climates the Car-Shadow prevents ice and frost on the car.

The Car-Shadow operates as a roller shade which is integrated into a rear spoiler. When needed to reduce interior heat the cover is pulled over the parked vehicle and fastened to the hood of the vehicle by means of a clasp. The shade covers the roof, front, rear, and side windows of the automobile. It is available in different sizes and will fit most models of automobiles. The Car-Shadow is imported with its hardware (two mounting plates with fastening screws, nuts, washers, wrench and hex wrench). Installation instructions indicate that the mounting plates are positioned on the trunk lid and the Car-Shadow housing (with the cover positioned over a roller mechanism) is mounted on the outer surface of the trunk.

In a second letter dated November 9, 1990, the inquirer also requested information on the classification of parts of the Car-Shadow. More information is necessary to determine classification of individual parts of the article.

**ISSUE:**

Whether the car cover at issue is classifiable as an automobile accessory, a tarpaulin, or as other made-up articles.

**LAW AND ANALYSIS:**

Heading 8708, HTSUSA, provides for parts and accessories of motor vehicles. The Explanatory Notes provide the official interpretation of the tariff at the international level. The Explanatory Notes to heading 8708, HTSUSA, provide that to be parts or accessories of automobiles the following conditions must be fulfilled:

1. They must be identifiable as being suitable for use solely or principally with the above mentioned vehicles; and

2. They must not be excluded by the provisions of the Notes to Section XVII.

The Car-Shadow is used solely with automobiles. It is attached directly to the car in a fairly permanent manner. It would not be excluded by the Notes to Section XVII.

Heading 6306, HTSUSA, provides for tarpaulins, awnings and sunblinds. The Explanatory Notes to heading 6306, HTSUSA, state as follows:

Tarpaulins . . . are generally in the form of rectangular sheets, hemmed along the sides, and may be fitted with eyelets, cords, straps, etc. Tarpaulins which are specially shaped (e.g., for covering hayricks, decks of small vessels, lorries, etc.) also fall in this heading provided they are flat.

Tarpaulins should not be confused with loose covers for motor-cars, machines, etc., made of tarpaulin material made up in a similar manner to tarpaulins (heading 6307).

Awnings, sunblinds (for shops, cafes, etc.). These are designed for protection against the sun; they are generally made of strong plain or striped canvas, and may be mounted on roller or folding mechanisms.

The cover at issue is not a tarpaulin because, although it is fitted to cover a car, it is not flat. It is much more elaborate than a loose car cover. It is not an awning or a sunblind because those are covers for windows on buildings.

The Explanatory Notes to heading 6306, state that loose car covers are classifiable under heading 6307. Heading 6307, HTSUSA, provides for other made up articles. The Explanatory Notes to heading 6307, state that this heading covers made up articles of any textile material which are not included more specifically in other headings. The Car-Shadow is not classifiable under this provision because it is not a loose cover, and it is more specifically provided for under heading 8708, HTSUSA, as a motor vehicle accessory.

**HOLDING:**

The Car-Shadow is classifiable under subheading *8708.99.5090*, HTSUSA, which provides for other parts and accessories of motor vehicles. The rate of duty is 3.1 percent ad valorem.

*Sincerely,*

JOHN DURANT,

*Director*

*Commercial Rulings Division*

## ATTACHMENT D

HQ H260066  
OT:RR:CTF:FTM H260066 PJG  
CATEGORY: Classification  
TARIFF NO.: 6307.90.98

MR. MARK SOMMER  
2 POPPYTRAIL  
ROLLING HILLS, CA 90274

RE: Revocation of NY 864763, NY 866826, and HQ 088040; tariff classification of textile car covers

DEAR MR. SOMMER:

On July 8, 1991, U.S. Customs and Border Protection (“CBP”) issued to you New York Ruling Letter (“NY”) 864763. It concerned the tariff classification of a car cover under the Harmonized Tariff Schedule of the United States (“HTSUS”). We have reconsidered NY 864763 and found it to be in error.

CBP is also revoking NY 866826, dated September 20, 1991, which involved the classification of three automobile covers in heading 8708, HTSUS. The ruling is being revoked with regard to the non-woven polypropylene car cover and the non-woven polyester/nylon car cover.<sup>1</sup> We are revoking the classification of the vinyl car cover in a separate revocation ruling.

Finally, CBP is revoking HQ 088040, dated January 16, 1991, which concerned the classification of an automobile sun protection system, which permanently mounted to the vehicle, and was imported with its hardware for installation.

**FACTS:**

In NY 864763, the subject car cover was described as follows:

The imported product is a car cover made primarily of nylon material, with elastic straps and a leather piece. You indicate that the cover is specifically designed and fitted to cover the windows and roof area of a Chevrolet Corvette automobile. The cover is affixed to the automobile by means of the elastic straps with VELCRO fasteners.

In NY 864763, CBP classified the subject merchandise in heading 8708, HTSUS, and specifically under subheading 8708.99.5085, HTSUSA<sup>2</sup>, which provided for “Parts and accessories of the motor vehicles of headings 8701 to 8705: Other parts and accessories: Other: Other: Other.”

In HQ 088040, the automobile sun protection system called the “Car-Shadow” was described as follows:

a weather protection system for automobiles, vans, and trucks. The apparatus is permanently mounted to the vehicle. The inquirer states that the product is suited to those areas of the country that are subject to extreme heat caused by the hot, bright sun. It is stated that the Car-Shadow can reduce interior heat in a vehicle by as much as 30 degrees Celsius (54 degrees Fahrenheit). It also helps protect the upholstery from

<sup>1</sup> Although this ruling only affects two of the articles which are the subject of NY 866826, the effect will be that the classification of all the articles will be changed, effectively revoking NY 866826.

<sup>2</sup> This language is from the 1991 version of the HTSUSA, and this particular subheading does not exist in the 2019 version of the HTSUSA.



fading, keeps the steering wheel from getting hot, and lessens the chances of dashboard cracking due to the continual exposure to heat buildup in the vehicle. In cold climates the Car-Shadow prevents ice and frost on the car.

The Car-Shadow operates as a roller shade which is integrated into a rear spoiler. When needed to reduce interior heat the cover is pulled over the parked vehicle and fastened to the hood of the vehicle by means of a clasp. The shade covers the roof, front, rear, and side windows of the automobile. It is available in different sizes and will fit most models of automobiles. The Car-Shadow is imported with its hardware (two mounting plates with fastening screws, nuts, washers, wrench and hex wrench). Installation instructions indicate that the mounting plates are positioned on the trunk lid and the Car-Shadow housing (with the cover positioned over a roller mechanism) is mounted on the outer surface of the trunk.

#### **ISSUE:**

Whether the subject car covers are classifiable in heading 6307, HTSUS, which provides for “Other made up articles, including dress patterns,” or under heading 8708, HTSUS, which provides for “Parts and accessories of the motor vehicles of headings 8701 to 8705.”

#### **LAW AND ANALYSIS:**

Classification determinations under the Harmonized Tariff Schedule of the United States (“HTSUS”) are 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.

GRI 2(b) provides as follows:

Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

GRI 3(b) provides as follows:

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

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

The 2019 HTSUS provisions under consideration are as follows:

**6307** Other made up articles, including dress patterns:

**8708** Parts and accessories of the motor vehicles of headings 8701 to 8705:

Note 3 to Section XVII states as follows:

References in chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the “official interpretation of the Harmonized System” at the international level. See 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989). 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 *id.*

ENs (XII) to GRI 2(b) states:

(XII) It does not, however, widen the heading so as to cover goods which cannot be regarded, as required under Rule 1, as answering the description in the heading; this occurs where the addition of another material or substance deprives the goods of the character of goods of the kind mentioned in the heading.

EN to Section XVII states, in pertinent part:

\* \* \*

### (III) PARTS AND ACCESSORIES

\* \* \*

It should, however, be noted that these headings apply **only** to those parts or accessories which comply with **all three** of the following conditions:

(a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).

and (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below).

and (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

\* \* \*

EN to 63.06 states, in pertinent part:

This heading covers a range of textile articles usually made from strong, close-woven canvas.

(1) **Tarpaulins.** These are used to protect goods stored in the open or loaded on ships, wagons, lorries, etc., against bad weather. They are generally made of coated or uncoated man-made fibre fabrics, or heavy to fairly heavy canvas (of hemp, jute, flax or cotton). They are waterproof. Those made of canvas are usually rendered waterproof or rotproof by treatment with tar or chemicals. Tarpaulins are generally in the form of rectangular sheets, hemmed along the sides, and may be fitted with eyelets, cords, straps, etc. Tarpaulins which are specially shaped (e.g., for covering hayricks, decks of small vessels, lorries, etc.) also fall in this heading **provided** they are flat.

Tarpaulins should not be confused with loose covers for motor-cars, machines, etc., made of tarpaulin material to the shape of these articles, nor with flat protective sheets of lightweight material made up in a similar manner to tarpaulins (**heading 63.07**).

EN to 63.07 states, in pertinent part:

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

It includes, in particular:

\* \* \*

(7) Loose covers for motor-cars, machines, suitcases, tennis rackets, etc.

\* \* \*

EN to 87.08 states, in pertinent part:

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05, **provided** the parts and accessories fulfil **both** the following conditions:

- (i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles;
- and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

Parts and accessories of this heading include :

(A) Assembled motor vehicle chassis-frames (whether or not fitted with wheels **but without engines**) and parts thereof (side-members, braces, cross-members; suspension mountings; supports and brackets for the coachwork, engine, running-boards, battery or fuel tanks, etc.).

(B) Parts of bodies and associated accessories, for example, floor boards, sides, front or rear panels, luggage compartments, etc.; doors and parts thereof; bonnets (hoods); framed windows, windows equipped with heating resistors and electrical connectors, window frames; running-boards; wings (fenders), mudguards; dashboards; radiator cowlings; number-plate brackets; bumpers and over-riders; steering column brackets; exterior luggage racks; visors; non-electric heating and defrosting appliances which use the heat produced by the engine of the vehicle; safety seat belts designed to be permanently fixed into motor vehicles for the protection of persons; floor mats (**other than** of textile material or unhardened vulcanised rubber), etc. Assemblies (including unit construction chassis-bodies) **not** yet having the character of incomplete bodies, e.g., not yet fitted with doors, wings (fenders), bonnets (hoods) and rear compartment covers, etc., are classified in this heading and not in heading 87.07.

(C) Clutches (cone, plate, hydraulic, automatic, etc., but **not** the electromagnetic clutches of **heading 85.05**), clutch casings, plates and levers, and mounted linings.

(D) Gear boxes (transmissions) of all types (mechanical, overdrive, pre-selector, electro-mechanical, automatic, etc.); torque converters; gear box (transmission) casings; shafts (**other than** internal parts of engines or motors); gear pinions; direct-drive dog-clutches and selector rods, etc.

(E) Drive-axles, with differential; non-driving axles (front or rear); casings for differentials; sun and planet gear pinions; hubs, stub-axles (axle journals), stub-axle brackets.

(F) Other transmission parts and components (for example, propeller shafts, half-shafts; gears, gearing; plain shaft bearings; reduction gear assemblies; universal joints). But the heading **excludes** internal parts of engines, such as connecting-rods, push-rods and valvelifters of **heading 84.09** and crank shafts, cam shafts and flywheels of **heading 84.83**.

(G) Steering gear parts (for example, steering column tubes, steering track rods and levers, steering knuckle tie rods; casings; racks and pinions; servo-steering mechanisms).

(H) Brakes (shoe, segment, disc, etc.) and parts thereof (plates, drums, cylinders, mounted linings, oil reservoirs for hydraulic brakes, etc.); servo-brakes and parts thereof.

(I) Suspension shock-absorbers (friction, hydraulic, etc.) and other suspension parts (**other than** springs), torsion bars.

(K) Road wheels (pressed steel, wire-spoked, etc.), whether or not fitted with tyres; tracks and sets of wheels for tracked vehicles; rims, discs, hub-caps and spokes.

(L) Control equipment, for example, steering wheels, steering columns and steering boxes, steering wheel axles; gear-change and hand-brake levers; accelerator, brake and clutch pedals; connecting-rods for brakes, clutches.

(M) Radiators, silencers (mufflers) and exhaust pipes, fuel tanks, etc.

(N) Clutch cables, brakes cables, accelerator cables and similar cables, consisting of a flexible outer casing and a moveable inner cable. They are presented cut to length and equipped with end fittings.

(O) Safety airbags of all types with inflator system (e.g., driver-side airbags, passenger-side airbags, airbags to be installed in door panels for side-impact protection or airbags to be installed in the ceiling of the vehicle for extra protection for the head) and parts thereof. The inflator systems include the igniter and propellant in a container that directs the expansion of gas into the airbag. The heading **excludes** remote sensors or electronic controllers, as they are not considered to be parts of the inflator system.

\* \* \*

In *Bauerhin Techs. Ltd. P'ship. v. United States*, 110 F.3d 774 (Fed. Cir. 1997), the court identified two distinct lines of cases defining the word "part." Consistent with *United States v. Willoughby Camera Stores, Inc.*, 21 C.C.P.A. 322, 324 (1933) (citations omitted), one line of cases holds that a part of an article "is something necessary to the completion of that article. . . . [W]ithout which the article to which it is to be joined, could not *function as such article*." The other line of cases evolved from *United States v. Pompeo*, 43 C.C.P.A. 9, 14 (1955), which held that a device may be a part of an article even though its use is optional and the article will function without it, if the device is dedicated for use upon the article, and, once installed, the article will not

operate without it. The definition of “parts” was also discussed in *Rollerblade, Inc. v. United States*, 282 F.3d 1349, 1353 (Fed. Cir. 2002), wherein the United States Court of Appeals for the Federal Circuit (“CAFC”) defined parts as “an essential element or constituent; integral portion which can be separated, replaced, etc.” *Id.* at 1353 (citing Webster’s New World Dictionary 984 (3d College Ed. 1988)). This line of reasoning has been applied in previous CBP rulings. *See e.g.*, HQ H255093 (Jan. 14, 2015); HQ H238494 (June 26, 2014); HQ H027028 (Aug. 19, 2008).

Insofar as the term “accessory” is concerned, the Court of International Trade (“CIT”) has previously referred to the common meaning of the term because the term is not defined by the HTSUS or its legislative history. *See Rollerblade, Inc. v. United States*, 24 Ct. Int’l Trade 812, 815–819 (2000), *aff’d*, 282 F.3d 1349 (Fed. Cir. 2002)). We also employ the common and commercial meanings of the term “accessory”, as the CIT did in *Rollerblade, Inc.*, wherein the court derived from various dictionaries “that an accessory must relate directly to the thing accessorized.” *See Rollerblade, Inc.*, 24 Ct. Int’l Trade at 817. In *Rollerblade, Inc.*, the CAFC noted that “an ‘accessory’ must bear a direct relationship to the primary article that it accessorizes.” 282 F.3d at 1352 (holding that inline roller skating protective gear is not an accessory because it “does not directly act on” or “contact” the roller skates). In support of its finding that the protective gear was not an accessory to roller skates, the CAFC also noted that the “protective gear does not directly affect the skates’ operation.” *Id.* at 1353.

The subject merchandise in this case is not a “part” under any of the tests provided in the judicial decisions described above. It is not a “part” under the *Willoughby* test because a car can function without the instant cover. It is also not a “part” under the Pompeo test because firstly, it is secured onto the car using its elastic straps with VELCRO fasteners, which likely would not constitute being “installed”, but also because even if it were considered “installed”, the car can still operate without the cover. *See also Rollerblade, Inc.*, 282 F.3d at 1353 (the CAFC found that the protective gear was not a part to the roller skates because they did not “attach to or contact” the roller skates, they were “not necessary to make the skates ... work”, nor were “they necessary to make the skates ... work efficiently or safely.”) In any case, the subject merchandise is not a “part” because it is not essential, constituent or integral to the vehicle. *See id.*

The subject merchandise is also not an “accessory” of motor vehicles. Like the protective gear in *Rollerblade, Inc.* and the truck tents classified in HQ H242603 (April 3, 2015), the car cover at issue does not directly affect the car’s operation nor does it contribute to the car’s effectiveness. *See Rollerblade, Inc.*, 282 F.3d at 1353; HQ 960950 (Jan. 16, 1998) (stating that “[a]ccessories are of secondary importance,” but must “somehow contribute to the effectiveness of the principal article”). Instead, the instant car cover provides protection to a car when it is not in use. In fact, like the truck tents in HQ H242603, in order for the car cover to be usable thereon, the car must be parked. Also, like the truck tents in HQ H242603 (April 3, 2015), the car cover does not contribute to the car’s safe and efficient use.

Although the subject car cover is sometimes in contact with the car (unlike the protective gear in *Rollerblade, Inc.*, which was never in contact with roller skates), the car cover is not in contact with the car while the car is in use. In this regard, we note that the exemplars of parts and accessories provided in

EN 87.08, such as mudguards, exterior luggage racks, number-plate brackets, and floor mats, stay on the motor vehicle when it is in use and when it not in use. Therefore, the car cover is neither a part nor an accessory because unlike the exemplars in the EN and unlike the articles in *Rollerblade*, it is in contact with the car only when the car is not in use and consequently cannot bear a direct relationship to the operation of the car. Since the subject merchandise is neither a “part” nor an “accessory” we need not consider General Explanatory Note (III) to Section XVII or the remainder of EN 87.08.

In HQ 953273, dated February 16, 1993, CBP cited to HQ 087596, dated January 31, 1991, wherein CBP distinguished between “loose” and fitted motor vehicle covers and classified fitted motor vehicle covers as parts and accessories for motor vehicles. In HQ 953273, CBP determined on the basis of EN 63.06, that “there is no reason to distinguish between ‘loose’ motor vehicle covers and fitted covers” and that “the authors of the Harmonized Commodity Description and Coding System did not intend for motor vehicle covers to be classified as parts and accessories for motor vehicles. Instead, automobile covers must be viewed as items related to tarpaulins.” CBP proceeded to note that motor vehicle covers are not classifiable as tarpaulins because they are not flat, but “this fact does not transform the covers into parts and accessories. Rather, they are to be classified as other made up textile articles not more particularly described in the Nomenclature under heading 6307.” Ultimately, CBP classified the subject motor vehicle covers under subheading 6307.90.9986, HTSUS, which provided for “Other made up articles, including dress patterns: Other: Other: Other: Other.” This same reasoning was used in HQ 953272 and HQ 953274, both dated February 16, 1993.

In NY 864763, we stated that the subject merchandise is made primarily of nylon material, with elastic straps and VELCRO fasteners, and a leather piece. After applying GRI 2(b) and EN (XII) to GRI 2(b), we do not find that the existence of the elastic straps with VELCRO fasteners and the leather piece preclude the merchandise from being considered a made up article of textile material under heading 6307, HTSUS, because the article itself, the car cover, is composed of textile fabric, and the elastic straps with VELCRO fasteners, and presumably, the leather piece, are used to secure the car cover to the car, and do not deprive the article of the character of a textile article.

In accordance with the reasoning in HQ 953272, HQ 953273, and HQ 953274, we find that the subject merchandise is classified in heading 6307, HTSUS, specifically under subheading 6307.90.98, HTSUS, which provides for “Other made up articles, including dress patterns: Other: Other: Other.”

We are also revoking NY 866826, which involved the classification of three automobile covers in heading 8708, HTSUS. The ruling is being revoked with regard to the non-woven polypropylene car cover and the non-woven polyester/nylon car cover. We are revoking the classification of the vinyl car cover in a separate revocation ruling. The non-woven polypropylene car cover and the non-woven polyester/nylon car cover are both made up articles of textile material and are properly classified in subheading 6307.90.98, HTSUS, which provides for “Other made up articles, including dress patterns: Other: Other: Other.”

Finally, we are revoking HQ 088040 because the sun protection system, which was classified under heading 8708, HTSUS, is neither a part nor an accessory. Specifically, the sun protection system is not a part under *Willoughby* or *Pompeo* because it is not “necessary to the completion” of the car and the car can still function without it. See *Willoughby*, 21 C.C.P.A. at 324;

*Pompeo*, 43 C.C.P.A. at 14. Finally, it is not a part under *Rollerblade*, because it is not “an essential element or constituent” of the car, nor is it an “integral portion” of the car, as it is not necessary to the operation of the car nor does it impact its ability to function. See 282 F.3d at 1353. Although the sun protection system is in direct contact with the car when it is mounted, the sun protection system is not an accessory because it does not directly affect the car’s operation. See *id.* Moreover, unlike the exemplars provided in EN 87.08, the sun protection system is only meant to be used when the car is not in use. Accordingly, the sun protection system in HQ 088040 is not classifiable under heading 8708, HTSUS, as a part or accessory of motor vehicles. In accordance with the reasoning in HQ 953272, HQ 953273, and HQ 953274, we find that the sun protection system is classified in heading 6307, HTSUS, specifically under subheading 6307.90.98, HTSUS, which provides for “Other made up articles, including dress patterns: Other: Other: Other.”

However, HQ 088040 states that the sun protection system is imported together with its hardware (two mounting plates with fastening screws, nuts, washers, wrench and hex wrench) for installation and these articles are classifiable under more than one heading so we must consider GRI 3 for the classification of this merchandise. GRI 3(b) addresses the classification of goods put up in sets for retail sale and it states that retail sets shall be classified as if they consisted of the component which gives them their essential character. EN(X) to GRI 3(b) states the following:

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

- (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings. Therefore, for example, six fondue forks cannot be regarded as a set within the meaning of this Rule;
- (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and
- (c) are put up in a manner suitable for sale directly to end users without repacking (e.g., in boxes or cases or on boards).

Applying the definition of the phrase “goods put up in sets for retail sale” provided in EN(X) to GRI 3(b), the sun protection system and its accompanying hardware meet the first requirement because they consist of at least two different articles that are *prima facie* classifiable in different headings of the HTSUS. The products also meet the second requirement because the hardware is provided together with the sun protection system in order to facilitate the mounting of the sun protection system onto a car. Finally, HQ 088040 does not provide any reason to believe that the sun protection system and its hardware will need to be repacked. Therefore, the sun protection system and its hardware are “goods put up in sets for retail sale,” which must be classified using GRI 3(b).

EN GRI 3(b) (VIII) lists factors to help determine the essential character of such goods, specifically: “the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.” The U.S. Court of International Trade has indicated that the factors listed in EN GRI 3(b) (VIII) are “instructive” but “not exhaustive” and has indicated that the goods must be “reviewed as a whole.” *The Home Depot, U.S.A., Inc. v. United States*, 30 Ct. Int’l Trade 445, 459–460

(2006) (citing *A.N. Deringer, Inc. v. United States*, 66 Cust. Ct. 378, 384 (1971) (citation omitted)). With regard to the good which imparts the essential character, the court has stated that it is “that which is indispensable to the structure, core or condition of the article, i.e., what it is.” *Id.* at 460 (citing *A.N. Deringer, Inc.*, 66 Cust. Ct. at 383).

The bulk, weight and value of the sun protection system supersedes that of its hardware. Moreover, the sun protection system is indispensable to the core of the set because the set is designed to protect a car from extreme heat caused by the sun and to protect it from the accumulation of ice and frost. Therefore, the essential character of the sun protection system and its hardware is imparted by the sun protection system. Accordingly, by application of GRIs 3(b) and 6, the sun protection system and its hardware is properly classified under 6307.90.98, HTSUS.

**HOLDING:**

Under the authority of GRIs 1, 2(b)<sup>3</sup>, 3(b)<sup>4</sup>, and 6 the subject textile car covers are classified under heading 6307, HTSUS, specifically under sub-heading 6307.90.98, HTSUS, which provides for “Other made up articles, including dress patterns: Other: Other: Other.” The 2019 column one, general rate of duty is 7 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/](http://www.usitc.gov/tata/hts/).

**EFFECT ON OTHER RULINGS:**

HQ 088040, dated January 16, 1991, is REVOKED.

NY 864763, dated July 8, 1991, is REVOKED.

NY 866826, dated September 20, 1991, is REVOKED.

*Sincerely,*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

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<sup>3</sup> GRI 2(b) only applies to the subject merchandise in NY 864763, dated July 8, 1991.

<sup>4</sup> GRI 3(b) only applies to the subject merchandise in HQ 088040, dated January 16, 1991.



## **PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF CERTAIN SOLAR KITS**

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

**ACTION:** Notice of proposed revocation of treatment relating to the tariff classification of certain solar kits.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke the treatment accorded to transactions of the importer identified in proposed Headquarters Ruling Letter (“HQ”) H298151, concerning the tariff classification of certain solar kits under the Harmonized Tariff Schedule of the United States (HTSUS). CBP also proposes to revoke any other 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 June 14, 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, 10<sup>th</sup> 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)(2), CBP is proposing to revoke any treatment previously accorded by CBP to transactions that are substantially identical to those described in proposed HQ H298151 (attached). 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.

Under the above-referenced treatment, CBP classified certain solar kits in heading 8541, HTSUS, specifically in subheading 8541.40.60, HTSUS, which provides for "Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED); mounted piezoelectric crystals; parts thereof: Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED): Other diodes." CBP has reviewed the treatment and has determined the treatment to be in error. It is now CBP's position that the solar kits are properly classified, in heading 8501, HTSUS, specifically in subheading 8501.31.80, HTSUS, which provides for "Electric motors and generators (excluding generating sets): Other DC motors: DC generators: Of an output not exceeding 750 W: Generators."

Pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke the treatment concerning the classification of the subject solar kits and to revoke or modify any ruling not specifically identified to reflect the analysis contained in the proposed HQ H298151, set forth as an attachment to this notice. Additionally, 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: April 30, 2019

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

Attachment

HQ H298151  
 CLA-2 OT:RR:CTF:TCM H298151 DSR  
 CATEGORY: Classification  
 TARIFF NO.: 8501.31.80

MR. LARRY T. ORDET  
 SANDLER, TRAVIS & ROSENBERG, P.A.  
 1000 NW 57TH COURT, SUITE 600  
 MIAMI, FL 33126

RE: Revocation of treatment under 19 C.F.R. 177.12(c)(1); notice and comment requirements of 19 U.S.C. §1625(c)(2); various solar kits

DEAR MR. ORDET:

This is in response to your letter of June 26, 2017, on behalf of Sunforce Products, Inc., (Sunforce) concerning the classification of various solar kits under the Harmonized Tariff Schedule of the United States (HTSUS).

On July 24, 2008, U.S. Customs and Border Protection (CBP) – the Port of Champlain – issued a CBP Form 28 (CF-28) Request for Information to Sunforce relating to a single entry of a solar kit. CBP reviewed the information provided by Sunforce and liquidated the entry as entered in subheading 8541.40.60, HTSUS, which provides for “Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED); mounted piezoelectric crystals; parts thereof: Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED): Other diodes.” Sunforce alleges that it continued to use subheading 8541.40.60, HTSUS, for subsequent imports of such solar kits, as well as for similar solar kits, based upon having received “CBP’s approval regarding the classification of these goods and consistent with the company’s historic classification practice.”

In addition, on December 30, 2009, the Port of Champlain issued a CF-28 concerning the classification of “various solar products” on a line of a single entry dated December 11, 2009. The entry line included nine separate part numbers, including three items previously reviewed by CBP pursuant to the 2008 request, *supra*. CBP reviewed the information provided by Sunforce and liquidated the entry as entered in subheading 8541.40.60, HTSUS.

Sunforce asserts that it continued to use subheading 8541.40.60, HTSUS, for subsequent imports of such solar panels and kits, as well as substantially similar solar panels and kits between 2011 and 2012. The table below summarizes the entry dates, liquidation dates and HTSUS numbers that Sunforce assigned at entry to the items that are the subject of this protest:

Entry Date	Liquidation Date	Port of Entry	HTSUS subheading
9/15/2011	7/27/2012	3802	8541.40.60
9/7/2011	7/20/2012	3802	8541.40.60
8/5/2011	6/15/2012	3802	8541.40.60
4/25/2012	8/3/2012	3802	8541.40.60
4/27/2012	8/3/2012	3802	8541.40.60

Entry Date	Liquidation Date	Port of Entry	HTSUS subheading
5/18/2012	8/3/2012	3802	8541.40.60
6/15/2012	7/23/2012	3802	8501.31.80
7/26/2012	8/21/2012	3802	8501.31.80
7/30/2012	8/21/2012	3802	8501.31.80

Upon liquidation, U.S. Customs and Border Protection (CBP) classified all of the items as electric generators under subheading 8501.31.80, HTSUS, which provides for “Electric motors and generators (excluding generating sets): Other DC motors: DC generators: Of an output not exceeding 750 W: Generators.” We note that Sunforce alleges that it classified the last three entries listed under subheading 8501.31.80, HTSUS, in accordance with CBP’s guidance.

Sunforce describes the items as “solar panels, which are sometimes referred to battery maintainers, trickle chargers or battery chargers ... all designed solely to supply power to a battery, which can then be used to provide power to another, primary device.” Sunforce states that each panel includes a backflow, or blocking, diode that allows the electric current to flow in one direction, thus preventing the current from flowing from the battery to the solar panel, and although some of the larger panels, *e.g.*, those over 15W, include such a diode, a separate charge controller is typically used to protect the battery and the panel from overcharging or undercharging. The following table summarizes the items at issue:

Part No.	Description
50012	1.8W Solar Battery Charger
50013	1W Powersport Charger
50022	5W Solar Battery Trickle Charger
50032	15W Solar Battery Charger
50033	Four 15W Kits in Pop Display
58012	Coleman 2W Solar Battery Charger
58013	Coleman 1W Powersport Charger
58022	Coleman 6W Solar Battery Trickle Charger
58025	Coleman 10W Solar Power Panel
58033	Coleman 18W Solar Battery Charger Kit & Controller
58050	Coleman 55W Solar Charging Kit
58232	Coleman 36W Folding Solar Panel & 7 Amp Controller

Item 50012 – the 1.8W Solar Battery Charger – includes a wire connected to solar panel, extra wire, battery clamps, an O-Ring Connector and fuse, and “Quick Connect Technology.” It also has a built-in blocking diode to prevent discharge from the battery and integrated circuitry to prevent discharge and overcharge.

Item 50013 – the 1W Powersport Charger – includes a solar charger, a set of O-Rings, and a set of battery clamps. It may be attached directly to a battery and contains a blocking diode that prevents discharge and overcharge.

Item 50022 – the 5W Solar Battery Trickle Charger – includes a 12V DC Plug, alligator clamps, an 11.5 foot wire, a solar panel, and four stainless steel mounting screws. It may be installed by connecting its 12V DC plug into a vehicle's DC socket to charge the vehicle's battery, or by directly connecting it to a vehicle's battery by using the alligator clamps. The solar panel has a built-in blocking diode to prevent reverse discharge.

Item 50032 – the 15W Solar Battery Charger – includes a 12V DC plug, alligator clamps, an 11.5 foot wire, a solar panel and four stainless steel mounting screws. It may be installed by connecting its 12V DC plug into a vehicle's DC socket to charge the vehicle's battery, or by directly connecting it to a vehicle's battery by using the alligator clamps. The solar panel has a built-in blocking diode to prevent reverse discharge. The set also includes a voltage tester.

Item 50033 – the “4 15W Kits with Pop Display” – includes a seven amp charge controller, 12V DC plug, alligator clamps, an 11.5 foot wire, a solar panel, and four stainless steel mounting screws. The kit also includes a voltage tester. The charge controller is attached to a vehicle's battery via the included alligator clips and cuts voltage, thereby ensuring no overcharging of the battery. The solar panel itself is connected to the charge controller via the included 11.5 foot wire. The solar panel contains a built-in blocking diode that protects the battery from reverse discharge.

Item 58012 – the Coleman 2W Solar Battery Maintainer – includes a solar panel, alligator battery clamps, and a 12V DC plug. It may be installed by connecting its 12V DC plug into a vehicle's DC socket to charge the vehicle's battery, or by directly connecting it to the battery by using the alligator clamps. The solar panel has a built-in blocking diode to prevent reverse discharge.

Item 58013 – the Coleman 1W Powersport Charger – is described thusly: “The 12 Volt Power Sports Charger may be attached directly to your battery using either of the accessories included with the charger. Included with the charger are a set of ‘O’ Rings as well as a set of battery clamps. Both are equipped with quick connect technology to allow quick and easy connections.” The panel contains a blocking diode that prevents discharge and overcharge.

Item 58022 – the Coleman 6W Solar Battery Trickle Charger – includes a 12V DC plug, alligator battery clamps, a ten-foot wire, a solar panel and four stainless steel mounting screws. It may be installed by connecting its 12V DC plug into a vehicle's DC socket to charge the vehicle's battery, or by directly connecting it to the battery by using the alligator clamps. The panel also includes a blocking diode to prevent battery drain and reverse discharge.

Item 58025 – the Coleman 10W Solar Power Panel – includes a 12V DC plug, battery clamps, four stainless steel mounting screws and a ten-foot wire. The kit may be installed by connecting its 12V DC plug into a vehicle's DC socket to charge the vehicle's battery, or by directly connecting it to a vehicle's battery by using the battery clamps. The panel also includes a built-in blocking diode to prevent reverse discharge.

Item 58033 – Coleman 18W Solar Battery – includes a 12V DC plug, alligator battery clamps, a twelve-foot wire, a solar panel, four stainless steel mounting screws and an LED voltage indicator light. We note that the

product page for the item depicts a 7A charge controller as being included in the kit, along with a voltage tester. The kit may be installed by connecting its 12V DC plug into a vehicle's DC socket to charge the vehicle's battery, or by directly connecting it to the battery by using the battery clamps. The panel also includes a built-in blocking diode to prevent reverse discharge.

Item 58050 – the Coleman 55W Solar Charging Kit – includes the following:

1. Three x 18 Watt Amorphous Solar Panels with blocking diodes
2. 7 Amp Solar Charge Controller
3. 'Quick connect' extension cable
4. 12 Volt plug
5. Female 12 Volt connector
6. 12 Volt inverter plug
7. 3 in 1 cable connector
8. 'Stripped' wire charge controller connector
9. 200 watt power Inverter
10. Support frame

Item 58232 – the Coleman 36W Folding Solar Panel & 7A Controller – includes the following items:

1. 12 Volt plug
2. 1 Set of Alligator Battery Clamps
3. Solar Panel
4. Brackets (4)
5. Screws (15)
6. LED Voltage Indicator
7. Support rods (3)
8. Stripped wire for connection to charge controller
9. 7 amp charge controller

#### **ISSUE:**

Are the sets described above classifiable under heading 8501, HTSUS, which provides for electric generators, or under heading 8541, HTSUS, which provides for photosensitive semiconductor devices?

Has CBP accorded a treatment to Sunforce for the classification of these goods under subheading 8541.40.60, HTSUS?

#### **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 are as follows:

8501                      Electric motors and generators (excluding generating sets):

\* \* \*

	Other DC motors: DC generators:
8501.31	Of an output not exceeding 750 W: * * *
8501.31.80	Generators.
8541	Diodes, transistors and similar semiconductor devices; photo-sensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED); mounted piezoelectric crystals; parts thereof: * * *
8541.40	Photosensitive semiconductor devices, including photo-voltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED): * * *
8541.40.60	Other diodes. * * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the HTSUS. While not legally binding or dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989). Legal Note 4 to Section XVI (which contains Chapter 85) states that:

Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in chapter 84 or chapter 85, then the whole falls to be classified in the heading appropriate to that function.

Explanatory Note (“EN”) 85.01(II) describes two categories of items that are specifically included in heading 8501, HTSUS. To wit, the EN states:

(II) ELECTRIC GENERATORS

Machines that produce electrical power from various energy sources (mechanical, solar, etc.) are classified here [in heading 8501], provided they are not more specifically covered by any other heading of the Nomenclature.

\*\*\* The heading also covers photovoltaic generators consisting of panels of photocells combined with other apparatus, e.g., storage batteries and electronic controls (voltage regulator, inverter, etc.) and panels or modules equipped with elements, however simple (for example, diodes to control the direction of the current), which supply the power directly to, for example, a motor, an electrolyser.

In these devices, electricity is produced by means of solar cells which convert solar energy directly into electricity (photovoltaic conversion).

EN 85.41 provides, in pertinent part:

(B) PHOTSENSITIVE SEMICONDUCTOR DEVICES



This group comprises photosensitive semiconductor devices in which the action of visible rays, infra-red rays or ultra-violet rays causes variations in resistivity or generates and electromotive force, by the internal photo-electric effect.

\*\*\* The main types of photosensitive semiconductor devices are:

\*\*\* (2) Photovoltaic cells, which convert light directly into electrical energy without the need for an external source of current. [...]

Special categories of photovoltaic cells are:

(i) Solar cells, silicon photovoltaic cells which convert sunlight directly into electric energy. They are usually used in groups such as source of electric power, e.g., in rockets or satellites employed in space research, for mountain rescue transmitters.

The heading also covers solar cells, whether or not assembled in modules or made into panels. However the heading does not cover panels or modules equipped with elements, however simple, (for example, diodes to control the direction of current), which supply the power directly to, for example, a motor, an electrolyser (heading 85.01).

Thus, per the ENs, panels or modules with elements that can supply the power directly to an external load, are precluded from classification in heading 8541, HTSUS, and are classified in heading 8501, HTSUS.

The subject items are “goods put up in sets for retail sale” per GRI 3(b) and are goods of different headings particular for use in charging a vehicle battery. The included solar panels provide the essential character of the sets. Therefore, the sets must be classified according to the classification of the solar panels.

Sunforce asserts that the sets are classified under subheading 8541.40.60, HTSUS, based upon an interpretation of Headquarters Ruling Letter (“HQ”) H084604, dated May 3, 2010 (revoking New York Ruling Letter (“NY”) N047472, dated January 9, 2009). In HQ H084604, CBP noted that “a solar module is not precluded from classification under heading 8541, HTSUS, simply because it contains ‘elements’ (e.g., diodes which control the direction of the current). Those elements must also ‘supply power directly’ to an external load, such as a motor or an electrolyser.” *See* EN 85.41(B)(2)(i). CBP then classified the device as a photosensitive semiconductor device in subheading 8541.40.60, HTSUS, because the device lacked blocking diodes and inverters to convert DC power produced by the solar panels into AC power usable by items such as appliances. What is determinative in such cases is whether or not the device under consideration consisting of panels of photo-cells is combined with elements that enable the device to supply power directly and irreversibly to another device. The module in question in HQ H084604 could only connect to other solar modules in order to create a single solar panel and could not connect to external devices or an electrical grid. CBP explicitly noted the lack of such connectors in the underlying, and revoked, ruling New York Ruling Letter (NY) N047472 but that fact was not explicitly acknowledged in HQ H084604. In addition, although CBP noted that “[t]he vast majority of applications require that the DC produced by the module be converted into alternating current (‘AC’) by an inverter” and the module in question did not generate AC power, that does not completely illuminate the delineation between headings 8501 and 8541, HTSUS. In any

event, CBP correctly concluded that the module was classified in heading 8541 as a solar cell because it could not supply power to an external load.

The pertinent facts of HQ H084604 are distinguishable from the facts at hand. Here, each set's essential character is determined by the classification of the solar panel components, and those solar panel components include apparatus (such as battery clamps, DC socket plugs and a blocking diode) that allow the components to supply power to a vehicle's battery. The sets are therefore excluded from heading 8541, HTSUS, and classified in heading 8501, HTSUS, as generators. *See* HQ H136116 (March 2, 2011) and HQ H255441 (August 30, 2016), classifying similar solar generators in heading 8501, HTSUS.

However, Sunforce also claims that CBP was precluded from liquidating the subject articles in heading 8501, HTSUS, as opposed to heading 8541, HTSUS, because such an action runs afoul of the notice and comment requirements of 19 U.S.C. §1625(c). That provision provides that:

A proposed interpretive ruling or decision which would –

- (1) modify (other than to correct a clerical error) or revoke a prior interpretive ruling or decision which has been in effect for at least 60 days; or
- (2) have the effect of modifying the treatment previously accorded by the Customs Service to substantially identical transactions;

shall be published in the Customs Bulletin. The Secretary shall give interested parties an opportunity to submit, during not less than the 30-day period after the date of such publication, comments on the correctness of the proposed ruling or decision. After consideration of any comments received, the Secretary shall publish a final ruling or decision in the Customs Bulletin within 30 days after the closing of the comment period. The final ruling or decision shall become effective 60 days after the date of its publication.

Section 1625(c)(1) applies only to a proposed ruling that would be inconsistent with a “prior interpretive ruling or decision.” Such a prior interpretive ruling or decision cannot also be considered to be “treatment” covered by 19 U.S.C. §1625(c)(2). *See Motorola, Inc. v. United States*, 30 C.I.T. 1766, 1780, 462 F.Supp. 2d 1368, 1380 (2006); *aff'd by Motorola Inc. v. United States*, 509 F.3d 1368 (Fed. Cir. 2007) (“... a more logical reading of [19 USC 1625] is that Congress intended subsections (c)(1) and (c)(2) to have the same impact, but under different situations, the former when a prior interpretive ruling . . . has been issued, and the latter when no previous interpretive ruling or decision has been issued.’ ... Reading subsection (c)(2) as including interpretive rulings ... would render subsection (c)(1) redundant.” (*quoting* Def. Brief). Sunforce has not demonstrated that CBP has issued a pertinent “prior interpretive ruling or decision” within the meaning 19 U.S.C. §1625(c)(1), and Sunforce’s claim regarding that provision fails.

However, with regard to 19 U.S.C. §1625(c)(2) and Sunforce’s treatment claim, Title 19 of the Code of Federal Regulations (CFR) sets forth the evidentiary standards for determining whether treatment was previously accorded to substantially similar transactions. Section 177.12(c)(1) of the regulations (19 C.F.R. 177.12(c)(1)) provides that the following rules will apply for purposes of determining whether a “treatment” was previously accorded by CBP:

- (i) There must be evidence to establish that:

(A) There was an actual determination by a Customs officer regarding the facts and issues involved in the claimed treatment;

(B) The Customs officer making the actual determination was responsible for the subject matter on which the determination was made; and

(C) Over a 2-year period immediately preceding the claim of treatment, Customs consistently applied that determination on a national basis as reflected in liquidations of entries or reconciliations or other Customs actions with respect to all or substantially all of that person's Customs transactions involving materially identical facts and issues.

19 C.F.R. 177(c)(1)(ii) provides that the determination will be made on a case-by-case basis and will involve an assessment of all relevant factors. In particular, CBP will focus on past transactions to determine whether there was an examination of the merchandise by CBP or the extent to which those transactions were reviewed by CBP to determine the proper application of the CBP laws and regulations. Diminished weight will be given to transactions involving small quantities or values, and no weight to informal entries or transactions processed without examination or CBP officer review.

Further, 19 C.F.R. 177.12(c)(1)(iv) provides that "(t)he evidentiary burden as regards the existence of the previous treatment is on the person claiming the treatment. ..." and:

The evidence of previous treatment by Customs must include a list of all materially identical transactions by entry number (or other Customs assigned number), the quantity and value of merchandise covered by each transaction (where applicable), the ports of entry, the dates of final action by Customs, and, if known, the name and location of the Customs officer who made the determination on which the claimed treatment is based. In addition, in cases in which an entry is liquidated without any Customs review (for example, the entry is liquidated automatically as entered), the person claiming a previous treatment must be prepared to submit to Customs written or other appropriate evidence of the earlier actual determination of a Customs officer that the person relied on in preparing the entry and that is consistent with the liquidation of the entry.

Here, Sunforce asserts that an "actual determination" was made by CBP regarding substantially similar transactions in 2008 and 2009 "following a review of detailed product information provided in response to specific questions made by the Port of Champlain." In support, Sunforce cites to the following actions:

1. On July 24, 2008, the Port of Champlain issued a CBP Form 28 ("CF-28") Request for Information to Sunforce relating to a single entry of a solar panel kit. After CBP reviewed the information provided by Sunforce, the entry was liquidated as entered in subheading 8541.40.60, HTSUS, which provides for solar cells assembled into modules or made up into panels. Sunforce asserts that it continued to use subheading 8541.40.60, HTSUS, for subsequent imports of such solar panels and kits, as well as similar solar panels and kits, based upon having received "CBP's approval regarding the classification of these goods and consistent with the company's historic classification practice."

2. On December 30, 2009, the Port of Champlain issued a CF-28 concerning the classification of “various solar products” on a line of a single entry dated December 11, 2009. The entry line included nine separate part numbers, including three items previously reviewed by CBP pursuant to the 2008 request, *supra*. After CBP reviewed the information provided by Sunforce, the entry was liquidated as entered in subheading 8541.40.60, HTSUS. Sunforce asserts that it continued to use subheading 8541.40.60, HTSUS, for subsequent imports of such solar panels and kits, as well as substantially similar solar panels and kits.

Given the above, Sunforce claims that CBP’s reclassification and liquidations of the subject items in 2012 violates the notice and comment requirements of 19 U.S.C. §1625(c)(2) because CBP had previously made “actual determinations” on a national basis when classifying substantially similar items imported by Sunforce in subheading 8541.40.60, HTSUS, during at least the two years prior. In support, Sunforce has submitted a spreadsheet that identifies over 200 entries filed from June 22, 2010 through September 12, 2011 (after CBP issued the two CF-28’s) and liquidated in subheading 8541.40.60, HTSUS. The entries contain over 3000 items that Sunforce attests are substantially similar to the items that are the subject of this protest. The spreadsheet shows the model numbers and values of the merchandise, the ports of entry (Champlain, NY; Alexandria Bay, NY; and Port Huron, MI) and the dates of liquidation. Sunforce has also submitted an affidavit affirming the veracity of the information presented in the spreadsheet. Sunforce concludes that the aforementioned “treatment” can only be revoked or modified pursuant to the procedures outlined in 19 U.S.C. §1625(c)(2).

Given the volume of evidence submitted by Sunforce (and notwithstanding that the subject items are correctly classifiable in heading 8501, HTSUS, as electric generators) we find that Sunforce has shown that CBP has consistently applied the determination that the subject items were classified in subheading 8541.40.60, HTSUS, on a national basis as reflected in liquidations of entries or reconciliations or other CBP actions with respect to all or substantially all of Sunforce’s CBP transactions involving materially identical facts and issues. Therefore, we find that the notice and comment requirements of 19 U.S.C. §1625(c)(2) are applicable to the matter at hand and Sunforce has shown that those requirements were not met when CBP liquidated the entries that are the subject of Sunforce’s protest.

Under the facts presented, we conclude under 19 C.F.R. 177.12(c), that a treatment does, in fact, exist in classifying Sunforce’s solar kits under subheading 8541.40.60, HTSUS, which provides for “Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED); mounted piezoelectric crystals; parts thereof: Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED): Other diodes.”

**HOLDING:**

Under the authority of GRI 1, the subject solar kits are provided for in heading 8501, HTSUS, specifically in subheading 8501.31.80, HTSUS, which provides for “Electric motors and generators (excluding generating sets): Other DC motors: DC generators: Of an output not exceeding 750 W: Generators.”

On January 23, 2018, Presidential Proclamation 9693 imposed safeguard measures on imports of crystalline silicon photovoltaic (CSPV) cells and certain products incorporating CSPV cells in the form of additional tariffs or tariff rate quotas for a period of three years. Products classified under subheading 8501.31.80, HTSUS, unless specifically excluded, are subject to the additional duties. *See* Note 20 to Chapter 99 and subheading 9903.45.25, HTSUS.

Pursuant to 19 U.S.C. § 1625(c)(2), the treatment previously accorded Sunforce’s importations of this merchandise is revoked.

*Sincerely,*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

**COPYRIGHT, TRADEMARK, AND TRADE NAME  
RECORDATIONS****(NO. 4 2019)**

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

**SUMMARY:** The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in April 2019. A total of 175 recordations were approved in April, of which 159 were trademark recordations and 16 were copyright recordations. The last notice was published in the CUSTOMS BULLETIN Vol. 53, No. 12, April 24, 2019.

Corrections or updates may be sent to: Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street, NE, 10th Floor, Washington, D.C. 20229–1177, or via email at *iprrquestions@cbp.dhs.gov*.

**FOR FURTHER INFORMATION CONTACT:** LaVerne Watkins, Paralegal Specialist, Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade at (202) 325–0095.

Dated: May 1, 2019

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

## CBP IPR RECORDATION — APRIL 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Thm	Owner Name	GM Restricted
COP 19-00048	04/02/2019	04/02/2039	Highland Panel Design.	3form, Inc. d.b.a. 3form	No
COP 19-00049	04/02/2019	04/02/2039	Solar-led Panel Design	3form, Inc. d.b.a. 3form	No
COP 19-00050	04/02/2019	04/02/2039	Banter Pattern	3form, Inc.	No
COP 19-00051	04/02/2019	04/02/2039	Bounce Pattern	3form, Inc.	No
COP 19-00052	04/02/2019	04/02/2039	Branch Pattern	3form, Inc.	No
COP 19-00053	04/02/2019	04/02/2039	Boxed Pattern	3form, Inc.	No
COP 19-00054	04/02/2019	04/02/2039	Circuit Pattern	3form, Inc.	No
COP 19-00055	04/02/2019	04/02/2039	Crossed Pattern	3form, Inc.	No
COP 19-00056	04/02/2019	04/02/2039	Addition Pattern	3form, Inc.	No
COP 19-00057	04/04/2019	04/04/2039	SUPER SMASH BROS. ULTIMATE.	Nintendo of America Inc.,	No
COP 19-00058	04/10/2019	04/10/2039	Dapple Pattern	3form, Inc.	No
COP 19-00059	04/23/2019	01/23/2020	The Sidestroke	Summersalt, Inc.	No
COP 19-00060	04/23/2019	01/23/2020	PDP Design	Performance Designed Products LLC	No
COP 19-00061	04/24/2019	04/24/2039	Cube Plus 48	Daniel Flaherty	No
COP 19-00062	04/24/2019	04/24/2039	Cube Corner 48	Daniel Flaherty	No
COP 19-00063	04/24/2019	04/24/2039	Pro Plus 36	Daniel Flaherty	No
TMK 00-00573	04/15/2019	04/30/2029	DUX	DUX DESIGN AB	No
TMK 02-00242	04/04/2019	07/20/2029	AVANDIA	SMITHKLINE BEECHAM (CORK)	No
TMK 02-00250	04/04/2019	07/20/2029	TWINRIX	GlaxoSmithKline Biologicals S.A	No
TMK 02-00307	04/04/2019	08/04/2029	A (Stylized) and Design	AZPB Limited Partnership	No
TMK 05-00210	04/24/2019	04/19/2029	WASHINGTON WIZARDS	WASHINGTON BULLETS L.P.	No
TMK 05-00404	04/15/2019	06/21/2028	EATON	EATON CORPORATION	No

## CBP IPR RECORDATION — APRIL 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Tm	Owner Name	Gm Restricted
TMK 06-00684	04/02/2019	09/08/2029	DESIGN ONLY (ARROWS FORMING A CIRCLE OR AN ARC OF A CIRCLE)	Phasetrionics, Inc.	No
TMK 08-00252	04/15/2019	04/28/2029	HALLMARK AND CROWN DESIGN	HALLMARK LICENSING LLC	No
TMK 08-00541	04/15/2019	06/10/2028	ARMANI	GIORGIO ARMANI S.P.A	No
TMK 09-00116	04/26/2019	01/11/2029	STARTEP	STUDIO IP HOLDINGS LLC	No
TMK 09-01234	04/15/2019	07/27/2029	THALOMID	Celgene Corporation	No
TMK 10-00165	04/11/2019	04/05/2029	DELICIOUS	Fortune Dynamic, Inc.	No
TMK 10-00394	04/15/2019	10/15/2028	JOHN DEERE	Deere & Company	No
TMK 10-00409	04/15/2019	10/15/2028	JOHN DEERE	Deere & Company	No
TMK 10-00426	04/02/2019	04/26/2029	DESIGN	Mazda Motor Corporation	No
TMK 10-00681	04/11/2019	05/31/2029	MAURO PISANI	OLEM SHOE CORP.	No
TMK 10-01318	04/11/2019	09/01/2029	BRUNO VALENTI	OLEM SHOE CORP.	No
TMK 11-00261	04/03/2019	07/04/2029	HEN & ROOSTER	FROST CUTLERY COMPANY LLC	No
TMK 11-01126	04/02/2019	12/30/2028	United States Postal Service & Design	United States Postal Service Independent Establishment of the Executive Branch of the Government of the United States	No
TMK 11-01334	04/13/2019	12/25/2027	ARMANI COLLEZIONI	GIORGIO ARMANI S.P.A.	No
TMK 11-01440	04/15/2019	12/27/2028	SALVATORE FERRAGAMO (STYLIZED)	SALVATORE FERRAGAMO S.P.A.	No
TMK 11-01473	04/03/2019	09/13/2028	TORY BURCH	River Light V, L.P.	No
TMK 11-01479	04/10/2019	08/13/2028	TORY BURCH	River Light V, L.P.	No
TMK 11-01481	04/04/2019	08/13/2028	TORY BURCH	River Light V, L.P.	No
TMK 12-00712	04/15/2019	10/15/2028	JOHN DEERE	Deere & Company	No
TMK 12-00938	04/05/2019	10/29/2028	BMR	Bio-Medical Research Limited	No
TMK 12-01135	04/26/2019	04/23/2029	VERSA TILES	HAND2MIND, INC.	No



## CBP IPR RECORDATION — APRIL 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Tm	Owner Name	Gm Restricted
TMK 12-01231	04/24/2019	05/10/2029	DESIGN ONLY (Fished Shaped Container)	New Shreve, Crump & Low LLC	No
TMK 13-01149	04/15/2019	09/02/2029	VIDAZA & Design	Celgene Corporation	No
TMK 13-01166	04/15/2019	06/30/2029	ISTODAX (Stylized)	Celgene Corporation	No
TMK 13-01188	04/15/2019	02/24/2029	SANDBELL	HYPER WEAR INC.	No
TMK 14-00810	04/02/2019	12/30/2028	BELLA COSA & Design	SOBEL WESTEX, INC.	No
TMK 14-01062	04/02/2019	05/10/2029	KENSINGTON	ACCO Brands Corporation	No
TMK 15-00749	04/03/2019	05/17/2029	DATEJUST	ROLEX WATCH U.S.A., INC.	No
TMK 16-00646	04/24/2019	12/01/2028	A and Design (Colorado Avalanche "A" Logo)	COLORADO AVALANCHE, LLC	No
TMK 16-00650	04/24/2019	01/14/2029	B and Design	Boston Professional Hockey Association, Inc.	No
TMK 16-00658	04/24/2019	01/28/2029	DESIGN ONLY	San Jose Sharks, LLC	No
TMK 16-00664	04/23/2019	12/09/2028	Washington Capitals & Hockey Stick Design	Lincoln Hockey LLC	No
TMK 16-00668	04/24/2019	01/28/2029	DESIGN ONLY (Ottawa Senators "Senator" Logo)	Capital Sports & Entertainment Inc.	No
TMK 16-00674	04/24/2019	01/13/2029	C and Design (Vancouver Canucks "C" Logo)	VANCOUVER CANUCKS LIMITED PARTNERSHIP	No
TMK 16-00733	04/24/2019	03/25/2028	DESIGN ONLY (Columbus Blue Jackets Star & Flag Logo)	COLHOC LIMITED PARTNERSHIP	No
TMK 17-00050	04/23/2019	04/19/2029	KOOL (Stylized)	ITG BRANDS, LLC	No
TMK 17-00545	04/23/2019	11/11/2028	QUESTION MARK and DESIGN	GUESS? IP HOLDER L.P.	No
TMK 17-00626	04/03/2019	04/20/2029	TT & Design	River Light V, L.P.	No
TMK 19-00412	04/01/2019	05/28/2027	DESIGN ONLY	Kaloud, Inc.	No

## CBP IPR RECORDATION — APRIL 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Trm	Owner Name	Gm Restricted
TMK 19-00413	04/01/2019	09/23/2025	KALOUD	Kaloud, Inc.	No
TMK 19-00414	04/01/2019	04/02/2027	BAFFIN & Design	BAFFIN LIMITED CORPORATION	No
TMK 19-00415	04/01/2019	01/13/2029	BAFFIN	BAFFIN LIMITED	No
TMK 19-00416	04/01/2019	05/09/2026	BBTANK (Stylized)	Shenzhen Babyton Technology Co., Ltd.	No
TMK 19-00417	04/02/2019	10/18/2021	CELESTONE	MERCK SHARP & DOHME CORP.	No
TMK 19-00418	04/02/2019	07/04/2027	CUBICIN RF	Merck Sharp & Dohme Corp.	No
TMK 19-00419	04/02/2019	06/24/2028	FOLLISTIM	MERCK SHARP & DOHME B.V.	No
TMK 19-00420	04/02/2019	03/25/2022	INVANZ	MERCK SHARP & DOHME CORP.	No
TMK 19-00421	04/02/2019	07/17/2027	ZOLINZA	MERCK SHARP & DOHME CORP.	No
TMK 19-00422	04/02/2019	04/17/2021	ORGANON and Design	ORGANON USA INC.	No
TMK 19-00423	04/02/2019	10/03/2028	F & Design	Fendi S.r.l.	No
TMK 19-00424	04/02/2019	07/02/2029	AQUALIFE & Design	BELTRON PRODUCTS INC	No
TMK 19-00425	04/04/2019	09/14/2026	KALOUD and Design	Kaloud, Inc.	No
TMK 19-00426	04/04/2019	11/26/2023	INTERVET	Intervet Inc.	No
TMK 19-00427	04/04/2019	03/25/2022	Blue Ribbon Pet Products & Design	BLUE RIBBON PET PRODUCTS, INC.	No
TMK 19-00428	04/04/2019	04/08/2029	AAKAA	AAKAA Inc.	No
TMK 19-00429	04/04/2019	09/14/2024	EXOTIC ENVIRONMENTS	BLUE RIBBON PET PRODUCTS, INC.	No
TMK 19-00430	04/04/2019	11/06/2023	DESIGN (STRIPE) & COLOR	Gucci America, Inc.	No
TMK 19-00431	04/05/2019	06/19/2029	VEEARC	VeeArc, LLC	No
TMK 19-00432	04/05/2019	09/13/2027	CHUBBY GORILLA	CHUBBY GORILLA, INC.	No
TMK 19-00433	04/05/2019	10/03/2028	BUTTER MILL	Max Space, Inc.	No
TMK 19-00434	04/05/2019	01/30/2029	CHUBBY GORILLA with design	Chubby Gorilla, Inc.	No
TMK 19-00435	04/05/2019	12/03/2023	BMR and Design Logo	Bio-Medical Research Ltd.	No

## CBP IPR RECORDATION — APRIL 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Trm	Owner Name	Gm Restricted
TMK 19-00436	04/05/2019	06/30/2025	SLENDERTONE CONNECT and Design Logo	Bio-Medical Research Limited	No
TMK 19-00437	04/10/2019	05/26/2029	METCOPPO	TECHNOSUPPLIES CORP	No
TMK 19-00438	04/10/2019	11/13/2025	CEASE FIRE	CEASE FIRE, LLC	No
TMK 19-00439	04/10/2019	12/03/2023	THE FLEX BELT	SLENDERTONE DISTRIBUTION INC.	No
TMK 19-00440	04/10/2019	03/07/2021	THE FLEX MINI	SLENDERTONE DISTRIBUTION INC.	No
TMK 19-00441	04/10/2019	03/28/2021	THE FLEX ARMS	SLENDERTONE DISTRIBUTION INC.	No
TMK 19-00442	04/10/2019	01/23/2028	PNINA TORNAI	Prina Tornai USA LLC	No
TMK 19-00443	04/10/2019	07/02/2029	KUN & Design	The Kun Shoulder Rest Inc.	No
TMK 19-00444	04/10/2019	01/28/2029	GA DESIGN	GIORGIO ARMANI S.P.A.	No
TMK 19-00445	04/10/2019	07/11/2027	BLACKSHIRTS and DESIGN	Board of Regents of the University of Nebraska	No
TMK 19-00446	04/11/2019	10/19/2021	DESIGN ONLY (CIRCLE WITH BAN- NER)	Top Tobacco, LP	No
TMK 19-00447	04/11/2019	06/08/2021	ALTESSE	Altesse Zigarettenhullenerzeugung und Papierverarbeitung Gesellschaft M.B.H.	No
TMK 19-00448	04/11/2019	05/28/2022	BETTER PRICE TOBACCO & design	Top Tobacco, LP	No
TMK 19-00449	04/11/2019	10/05/2021	BETTER PRICE TOBACCO (& DESIGN)	Top Tobacco, LP	No
TMK 19-00450	04/11/2019	11/14/2022	DESIGN ONLY (CIRCLE WITH BAN- NER)	Top Tobacco, LP	No
TMK 19-00451	04/11/2019	10/03/2028	DESIGN ONLY (Stylized horse spur with a star design)	San Antonio Spurs, LLC	No
TMK 19-00452	04/11/2019	11/28/2028	SANDVIK COROMANT and Design	SANDVIK INTELLECTUAL PROPERTY AB	No
TMK 19-00453	04/11/2019	04/16/2027	SANDVIK COROMANT & Design	Sandvik Intellectual Property AB	No

## CBP IPR RECORDATION — APRIL 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Trm	Owner Name	Gm Restricted
TMK 19-00454	04/11/2019	09/18/2026	FIFTY'S	NTANDA KABENGELE	No
TMK 19-00455	04/11/2019	07/15/2024	AVMACOL	NUTRAMAX LABORATORIES, INC.	No
TMK 19-00456	04/11/2019	04/22/2029	COSEQUIN	Nutramax Laboratories, Inc.	No
TMK 19-00457	04/12/2019	10/17/2027	DASUQUIN	NUTRAMAX LABORATORIES, INC.	No
TMK 19-00458	04/12/2019	04/28/2024	OLYMPUS	Olympus Corporation	No
TMK 19-00459	04/12/2019	01/26/2024	DESIGN ONLY (Laser Sunburst)	VELUM LTD	No
TMK 19-00460	04/15/2019	05/01/2021	STEELBELL	HYPER WEAR INC.	No
TMK 19-00461	04/18/2019	01/14/2025	FBA	Amazon Technologies, Inc.	No
TMK 19-00462	04/18/2019	08/22/2027	NHL and Shield Design	National Hockey League	No
TMK 19-00463	04/23/2019	01/14/2025	FBA	Amazon Technologies, Inc.	No
TMK 19-00464	04/23/2019	06/21/2027	NHLand Shield Design	National Hockey League	No
TMK 19-00465	04/23/2019	04/27/2025	DESIGN ONLY (Stanley Cup logo)	National Hockey League	No
TMK 19-00466	04/23/2019	06/27/2022	GAMBLER SMOKING MAN design	Top Tobacco L.P.	No
TMK 19-00467	04/23/2019	12/27/2026	GAMBLER SMOKING MAN design	Top Tobacco L.P.	No
TMK 19-00468	04/23/2019	09/07/2026	GAMBLER SMOKING MAN design	Top Tobacco L.P.	No
TMK 19-00469	04/23/2019	08/16/2026	ROLL WITH THE BEST	Republic Tbbacco, L.P.	No
TMK 19-00470	04/23/2019	11/07/2022	IT'S TIME TO ROLL YOUR OWN	Top Tobacco, LP	No
TMK 19-00471	04/23/2019	10/26/2021	IT'S TIME TO ROLL YOUR OWN	Top Tobacco, LP	No
TMK 19-00472	04/23/2019	03/22/2026	4 ACES	Top Tobacco, LP	No
TMK 19-00473	04/23/2019	03/09/2029	CRYSTAL	Republic Tbbacco, LP	No
TMK 19-00474	04/23/2019	01/23/2029	FRENCH WHITE	Republic Tbbacco LP	No
TMK 19-00475	04/23/2019	11/05/2025	COROPLAST	COROPLAST, LLC	No
TMK 19-00476	04/23/2019	03/21/2021	US LED	US LED, Ltd.	No

## CBP IPR RECORDATION — APRIL 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Trm	Owner Name	Gm Restricted
TMK 19-00477	04/23/2019	08/31/2021	BSB	BSB Entertainment, Inc.	No
TMK 19-00478	04/23/2019	02/19/2024	MIC FOOD (Stylized)	Mercadagro International Corporation	No
TMK 19-00479	04/23/2019	07/11/2026	TOILET TAITOOS	Masullo, Celeste	No
TMK 19-00480	04/23/2019	07/05/2021	SIRUI and Design	GUANGDONG SIRUI OPTICAL CO., LTD.	No
TMK 19-00481	04/23/2019	02/26/2024	BIG BANANA & Design	MERCADAGRO INTERNATIONAL CORPORATION	No
TMK 19-00482	04/23/2019	07/01/2024	KWIK KLEER	DRL Enterprises, Inc.	No
TMK 19-00483	04/23/2019	03/28/2021	BACKSTREET BOYS	BSB Entertainment, Inc.	No
TMK 19-00484	04/23/2019	02/05/2024	TATA HARPER and Design	Tata's Natural Alchemy, LLC	No
TMK 19-00485	04/26/2019	06/07/2025	STRONG BOX	REPUBLIC TOBACCO, L.P.	No
TMK 19-00486	04/26/2019	01/20/2026	REAL	Top Tobacco L.P.	No
TMK 19-00487	04/26/2019	08/16/2026	TRIBAL and Design	Republic Tobacco, L.P.	No
TMK 19-00488	04/26/2019	11/23/2021	MIKROMATIC	Top Tobacco L.P.	No
TMK 19-00489	04/26/2019	11/23/2021	MIKROMATIC (Stylized) and Design	Top Tobacco L.P.	No
TMK 19-00490	04/26/2019	04/23/2023	DAWN	DAWN FOODS, INC.	No
TMK 19-00491	04/26/2019	07/28/2021	DAWN	DAWN FOODS, INC.	No
TMK 19-00492	04/26/2019	07/07/2022	DAWN	DAWN FOODS, INC.	No
TMK 19-00493	04/26/2019	06/19/2022	DAWN and DESIGN	Dawn Foods, Inc.	No
TMK 19-00494	04/26/2019	08/17/2027	DAWN (Stylized)	DAWN FOODS, INC.	No
TMK 19-00495	04/26/2019	02/08/2022	DESIGN ONLY (MISC. LOCK Design)	Checkpoint Systems, Inc.	No
TMK 19-00496	04/26/2019	06/09/2024	TRUVATIV	SRAM, LLC	No
TMK 19-00497	04/26/2019	04/16/2027	Design Only (VEHICLE GRILLE)	FCA US LLC	No
TMK 19-00498	04/26/2019	04/16/2028	CARNOSYN	Natural Alternatives International, Inc.	No

## CBP IPR RECORDATION — APRIL 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Tm	Owner Name	Gm Restricted
TMK 19-00499	04/26/2019	08/22/2022	SR CARNOSYN	Natural Alternatives International, Inc.	No
TMK 19-00500	04/26/2019	07/23/2025	FREE-FLO and Design	Freeland Industries, Inc.	No
TMK 19-00501	04/26/2019	04/08/2023	CARNOSYN BETA ALANINE	NATURAL ALTERNATIVES INTERNATIONAL, INC.	No
TMK 19-00502	04/26/2019	08/09/2026	CARNOSYN CARNOSINE SYNTHESIZER and Design	Natural Alternatives International, Inc.	No
TMK 19-00503	04/26/2019	08/01/2022	PENN COLOR	Penn Color Inc.	No
TMK 19-00504	04/26/2019	02/06/2023	PENN COLOR A WORLD OF COLOR and Design	Penn Color Inc.	No
TMK 19-00505	04/26/2019	12/06/2021	SWIFT	Top Tobacco L.P	No
TMK 19-00506	04/26/2019	08/03/2021	OCB (stylized)	REPUBLIC TECHNOLOGIES (NA) LLC	No
TMK 19-00507	04/26/2019	12/01/2025	POWEROLL	Top Tobacco, L.P.	No
TMK 19-00508	04/26/2019	09/18/2026	POWER-ROLL	TOP TOBACCO, L.P.	No
TMK 19-00509	04/26/2019	04/24/2026	REPUBLIC TOBACCO	Republic Tobacco, L.P.	No
TMK 19-00510	04/26/2019	05/14/2026	REPUBLIC TOBACCO and Design	Republic Tobacco, L.P.	No
TMK 19-00511	04/26/2019	02/02/2021	SPEED LOCK	Top Tobacco, L.P.	No
TMK 19-00512	04/26/2019	12/01/2019	SUPEROLL	Top Tobacco, LP	No
TMK 19-00513	04/30/2019	03/26/2028	SHEILÉ	Tilden, Sheila Kay DBA SheilÉ	No
TMK 19-00514	04/30/2019	04/15/2029	NUCLEAR FUSION	Circle City Marketing & Distributing, Inc. DBA Candy Dynamics	No
TMK 19-00515	04/30/2019	11/05/2028	DESIGN ONLY (Mandolin Tailpiece Design)	Collings Guitars, Inc.	No
TMK 19-00516	04/30/2019	07/16/2029	SD HC (STYLIZED)	SD-3C LLC	No
TMK 19-00517	04/30/2019	02/23/2021	DREAMBONE	SPECTRUM BRANDS PET GROUP INC.	No
TMK 19-00518	04/30/2019	12/21/2024	COMPLETE SEASONING	Badia Spices, Inc.	No

## CBP IPR RECORDATION — APRIL 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	Gm Restricted
TMK 19-00519	04/30/2019	01/26/2025	SAZON COMPLETE	Badia Spices, Inc.	No
TMK 90-00386	04/02/2019	09/24/2029	TELECASTER	FENDER MUSICAL INSTRUMENTS CORPORATION	No
TMK 93-00115	04/02/2019	05/07/2029	TIMBERLAND (Stylized)	TBL LICENSING LLC	No
TMK 98-00054	04/13/2019	04/10/2028	GIORGIO ARMANI	GIORGIO ARMANI S.P.A	No
TMK 99-00060	04/15/2019	09/20/2029	CHICAGO CUBS	CHICAGO CUBS BASEBALL CLUB, LLC	No
TMK 99-00129	04/15/2019	05/02/2029	LUCKY ROSE	LJEN HOA FOOD CORP	No
TMK 99-00613	04/02/2019	04/26/2029	BOZO	Larry Harmon Pictures Corporation	No
TMK 99-00667	04/11/2019	03/17/2029	ELLE	Hachette Filipacchi Presse	No

**AGENCY INFORMATION COLLECTION ACTIVITIES:****Application for Withdrawal of Bonded Stores for Fishing Vessels and Certificate of Use**

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

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

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than May 28, 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** (83 FR 63522) on December 10, 2018, 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 for Withdrawal of Bonded Stores for Fishing Vessels and Certificate of Use.

**OMB Number:** 1651-0092.

**Form Number:** CBP Form 5125.

**Current Actions:** 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).

**Abstract:** CBP Form 5125, *Application for Withdrawal of Bonded Stores for Fishing Vessel and Certificate of Use*, is used to request the permission of the CBP port director for the withdrawal and lading of bonded merchandise (especially alcoholic beverages) for use on board fishing vessels involved in international trade. The applicant must certify on CBP Form 5125 that supplies on board were either consumed, or that all unused quantities remain on board and are adequately secured for use on the next voyage. CBP uses this form to collect information such as the name and identification number of the vessel, ports of departure and destination, and information about the crew members. The information collected on this form is authorized by 19 U.S.C. 1309 and 1317, and is provided for by 19 CFR 10.59(e) and 10.65. CBP Form 5125 is accessible at: <https://www.cbp.gov/newsroom/publications/forms?title=5125>.

**Affected Public:** Carriers.

**Estimated Number of Respondents:** 500.

**Estimated Number of Total Annual Responses:** 500.

**Estimated Time per Response:** 20 minutes.

**Estimated Total Annual Burden Hours:** 165.

Dated: April 23, 2019.

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

[Published in the Federal Register, April 26, 2019 (84 FR 17867)]