

U.S. Customs Service

General Notices

PROPOSED COLLECTION; COMMENT REQUEST

ENTRY OF ARTICLES FOR EXHIBITION

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Entry of Articles for Exhibition. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

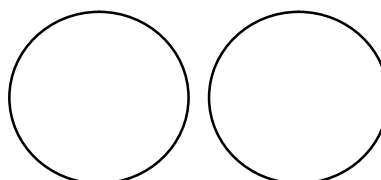
DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized



and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Entry of Articles for Exhibition

OMB Number: 1515-0106

Form Number: N/A

Abstract: This information is used by Customs to substantiate that the goods imported for exhibit have been approved for entry by the Department of Commerce.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 40

Estimated Time Per Respondent: 20 minutes

Estimated Total Annual Burden Hours: 530

Estimated Total Annualized Cost on the Public: N/A

Dated: January 24, 2002.

TRACEY DENNING,
Team Leader,
Information Services Group.

[Published in the Federal Register, January 30, 2002 (67 FR 4489)]

PROPOSED COLLECTION; COMMENT REQUEST

CERTIFICATE OF COMPLIANCE FOR TURBINE FUEL WITHDRAWALS

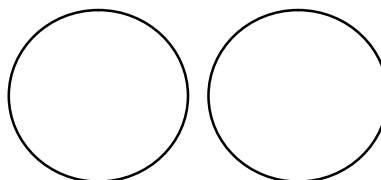
ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Certificate of Compliance for Turbine Fuel Withdrawals. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn. Tracey



Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Certificate of Compliance for Turbine Fuel Withdrawals

OMB Number: 1515-0209

Form Number: N/A

Abstract: This information is collected to ensure regulatory compliance for Turbine Fuel Withdrawals to protect revenue collections.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 20

Estimated Time Per Respondent: 12 hours

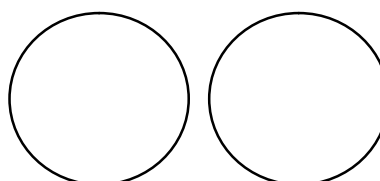
Estimated Total Annual Burden Hours: 240

Estimated Total Annualized Cost on the Public: N/A

Dated: January 24, 2002.

TRACEY DENNING,
Team Leader,
Information Services Group.

[Published in the Federal Register, January 30, 2002 (67 FR 4488)]



PROPOSED COLLECTION; COMMENT REQUEST
REQUEST FOR INFORMATION

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Request for Information. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

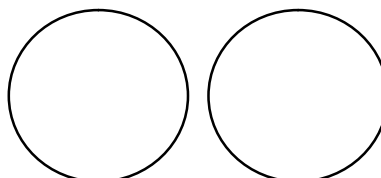
Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Request for Information

OMB Number: 1515-0068

Form Number: Customs Form 28

Abstract: Customs Form 28 is used by Customs personnel to request additional information from importers when the invoice or other documentation provide insufficient information for Customs to carry out its responsibilities to protect revenues.



U.S. CUSTOMS SERVICE

5

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 60,000

Estimated Time Per Respondent: 30 minutes

Estimated Total Annual Burden Hours: 30,000

Estimated Total Annualized Cost on the Public: N/A

Dated: January 24, 2002.

TRACEY DENNING,
Team Leader,
Information Services Group.

[Published in the Federal Register, January 30, 2002 (67 FR 4488)]

PROPOSED COLLECTION; COMMENT REQUEST

CUSTOMS REGULATIONS FOR CUSTOMHOUSE BROKERS

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Customs Regulations for Customhouse Brokers. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

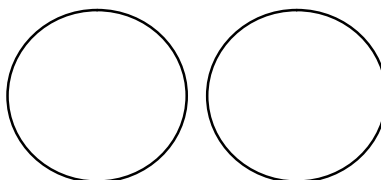
DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn. Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of



the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Customs Regulations for Customhouse Brokers

OMB Number: 1515-0100

Form Number: N/A

Abstract: This information is collected to ensure regulatory compliance for Customhouse brokers.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 500

Estimated Time Per Respondent: 3 hours

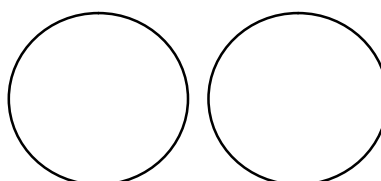
Estimated Total Annual Burden Hours: 1,500

Estimated Total Annualized Cost on the Public: \$150,000

Dated: January 24, 2002.

TRACEY DENNING,
Team Leader,
Information Services Group.

[Published in the Federal Register, January 30, 2002 (67 FR 4489)]



U.S. CUSTOMS SERVICE

7

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, January 30, 2002.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

DOUGLAS M. BROWNING,
*Acting Assistant Commissioner,
Office of Regulations and Rulings.*

PROPOSED MODIFICATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO TARIFF
CLASSIFICATION OF MAINTENANCE TOOL SETS

AGENCY: U.S. Customs Service, Department of the Treasury.

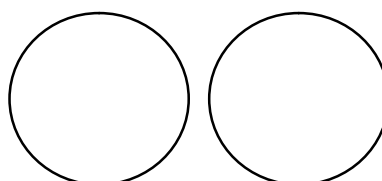
ACTION: Notice of proposed modification of a ruling letter and revocation of treatment relating to tariff classification of certain maintenance tool sets.

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 Customs intends to modify a ruling letter pertaining to the tariff classification of certain maintenance tool sets under the Harmonized Tariff Schedule of the United States ("HTSUS"). Customs also intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before March 15, 2002.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the same address.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, General Classification Branch, (202) 927-2388.



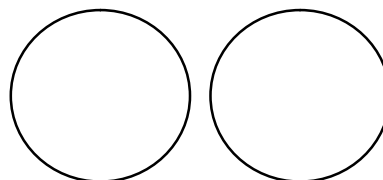
SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility.**" These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of maintenance tool sets. Although in this notice Customs is specifically referring to one ruling, HQ 964478, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs 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 notice of this proposed action.



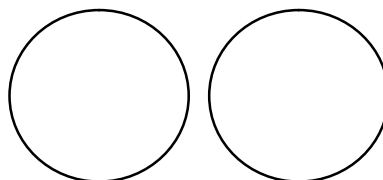
In HQ 964478 dated November 16, 2001, set forth as Attachment A to this document, Customs classified certain maintenance tool sets in subheading 8206.00.00, HTSUS, as: "Tools of two or more of headings 8202 to 8205, put up in sets for retail sale." There is no change proposed with respect to our classification in subheading 8206.00.00, HTSUS, which carries the rate of duty applicable to that article in the set subject to the highest rate of duty. In HQ 964478, we stated that the molded plastic carry case carried the highest rate of duty based upon its classification in subheading 4202.12.20, HTSUS, as: "Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels and similar containers: * * * With outer surface of plastics or of textile materials: With outer surface of plastics * * * Structured, rigid on all sides: Attache cases, briefcases and similar containers." It is now Customs position that the molded plastic carry case is classified in subheading 3926.90.98, HTSUS, as: "Other articles of plastics * * *: * * * Other: * * * Other." The article within the set which now carries the highest rate of duty is the electric torch which is classified in subheading 8513.10.20, HTSUS, as: "Portable electric lamps * * *: Lamps: Flashlights." Proposed HQ 965404, modifying HQ 964478, is set forth as Attachment B to this document.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to modify HQ 964478 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 965404. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

Dated: January 29, 2002.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]



[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, November 16, 2001.
CLA-2 RR:CR:GC 964478 GOB
Category: Classification
Tariff No. 8206.00.00 and 4202.12.20.10

ERICSSON INC.
W. ROBB LANE
IMPORT/EXPORT COMPLIANCE MANAGER
DISTRIBUTION AND TRADE COMPLIANCE
740 East Campbell Road
Richardson, TX 75081

Re: Maintenance tool set.

DEAR MR. LANE:

This is in reply to your letters of May 18 and July 28, 2000, in which you request a classification ruling under the Harmonized Tariff Schedule of the United States ("HTSUS"), with respect to the Ericsson Inc. maintenance tool set (LTT 408 38).

Facts:

You state that the maintenance tool set "is designed specifically for use in the installation and maintenance of telecommunication equipment, which will be installed on site, by Ericsson personnel."

The tool set includes the following items: wera slotted screwdriver (part # ESD 1578 A); tension tool (model GS2B); knipex pliers; snipe-nose pliers; wera screwdriver bit holder with screwdriver bits; rahsol torque driver (part LSC 21001); hexagon key; DT 320 digital multimeter; wrist strap; fiber optics (rubber cap with optical fiber attached); mini maglite® electric torch with nonrechargeable alkaline batteries; and a molded plastic carry case. The carry case, which has a soft foam plastic insert, is not lined or specially shaped or fitted, but does snugly contain all of the items.

Issue:

What is the tariff classification of the maintenance tool set?

Law and Analysis:

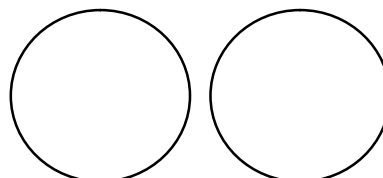
Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods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

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

Pertinent HTSUS Provisions

If imported separately, the items in the tool set would be classified in the following HTSUS provisions: wera slotted screwdriver—subheading 8205.40.00; tension tool—subheading 8205.59.55; knipex pliers—subheading 8203.20.60; snipe-nose pliers—subheading 8203.20.60; hexagon key—subheading 8204.11.00; wera screwdriver bit holder—subheading 8466.10.80; screwdriver bits—subheading 8207.90.60; rahsol torque driver—subheading 8466.10.80; DT 320 digital multimeter—subheading 9030.31.00; wrist strap—subheading 8536.30.80; optic fiber flashlight extension—subheading 9013.80.90; mini maglite® electric torch with batteries—subheading 8513.10.20 for electric torch, subheading 8506.10.00 for batteries; and molded plastic carry case—subheading 4202.12.20.10.

We find that the molded plastic case which carries the tools is a part of the set for the following reasons: the carrying case is generally an appropriate size for the tools contained



therein, e.g., its capacity is not larger than required to hold or carry the tools; it appears to be of durable construction; we believe the tools would typically be kept inside the carrying case when they are not in use; and we believe the carrying case would typically not be used for other purposes.

Subheading 8206.00.00

Subheading 8206.00.00, HTSUS, which is the only provision in heading 8206, HTSUS, provides for: "Tools of two or more of headings 8202 to 8205, put up in sets for retail sale." The general rate of duty applicable to goods of heading 8206, HTSUS, is: "The rate of duty applicable to that article in the set subject to the highest rate of duty."

EN 82.06 provides in pertinent part: "The heading covers sets of tools falling **at least** in two or more of the headings 82.02 to 82.05 **provided** they are put up in sets for retail sale (e.g., in a plastic case or in a metallic tool box) * * * Sets including tools of minor importance from other headings or Chapters of the Nomenclature remain classified in this heading, **provided that** such minority items do not change their essential character of sets of tools of two or more of the headings Nos. 82.02 to 82.05." [All emphasis in original.]

Subheading 8206.00.00, HTSUS, is what is known as a GRI 1 set. The U.S. Customs Service informed compliance publication entitled "Classification of Sets under the HTSUS" provides in pertinent part as follows: "In certain areas of the HTSUS, sets are specifically mentioned by name. The only requirements which are to be followed when dealing with a GRI 1 set are those mentioned in the particular HTSUS provisions describing the set, relevant chapter and section notes, and the relevant Explanatory Notes (ENs)." [Footnote omitted.]

We find that the tool set at issue here is a good put up in a set for retail sale within the meaning of the text of heading 8206, HTSUS. We note that in HQ 083968 dated July 6, 1989, we stated in pertinent part as follows:

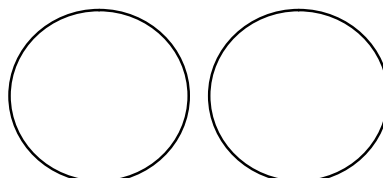
There is no requirement that sets actually be sold at retail. Fuel modification kits delivered without repacking to Audi dealers who, as the ultimate consumers, will install the components on recalled cars without charge to the owners, are put up in a manner suitable for sale directly to users.

After careful consideration, we find that the subject tool set is described in subheading 8206.00.00, HTSUS, in that it meets the terms of the subheading, as well as the EN. In this regard, we determine that the items in the tool set which are not themselves described in headings 8202 through 8205 (see above) do not change the essential character of the subject good, which is a tool set containing tools of two or more of headings 8202 through 8205. The items within the tool set which are not described in headings 8202 through 8205 serve to assist in the work performed by the tools of heading 8202 through 8205 and are auxiliary in nature to the central function of the tools of headings 8202 through 8205. The essential purpose of the tool set is to permit the user to engage in maintenance work via the use of the tools of headings 8202 through 8205.

Therefore, according to the terms of subheading 8206.00.00, HTSUS, the rate of duty for the maintenance tool set is the rate of duty applicable to that article in the set subject to the highest rate of duty. The article in the set which has the highest rate of duty is the molded plastic carry case which is classified in subheading 4202.12.20.10, HTSUS, as: "Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels and similar containers: * * * With outer surface of plastics or of textile materials: With outer surface of plastics * * * Structured, rigid on all sides: Attache cases, briefcases and similar containers."

Please note that section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1930), provides that unless excepted, every article of foreign origin imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Congressional intent in enacting 19 U.S.C. 1304 was "that the ultimate purchaser should be able to know by an inspection of marking on the imported article the country of which the goods is the product. The evident purpose is to mark the goods so that at the time of purchase the ultimate purchaser may, by knowing where the goods were purchased, be able to buy or refuse to buy them, if such marking should influence his will." *United States v. Friedlaender & Co., Inc.*, 27 CCPA 297, 302 (1940). Part 134, Customs Regulations (19 CFR Part 134) implements the requirements of section 304.

Inasmuch as some of the tools are indicated to be of U.S. origin, we refer you to Treasury Decision 91-7 (copy enclosed) with respect to the potential applicability of subheading



12 CUSTOMS BULLETIN AND DECISIONS, VOL. 36, NO. 7, FEBRUARY 13, 2002

9801.00.10, HTSUS, to items within the set and with respect to country of origin marking issues.

If you have questions with respect to these issues, you should contact the Special Classification and Marking Branch of this office.

Holding:

The maintenance tool set is classified in subheading 8206.00.00, HTSUS, as: "Tools of two or more of headings 8202 to 8205, put up in sets for retail sale." The general rate of duty is: "The rate of duty applicable to that article in the set subject to the highest rate of duty," i.e., the rate of duty for the molded plastic carry case which is classified in subheading 4202.12.20.10, HTSUS.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR:CR:GC 965404 GOB
Category: Classification
Tariff No. 8206.00.00 and 8513.10.20

ERICSSON INC.
W. ROBB LANE
IMPORT/EXPORT COMPLIANCE MANAGER
DISTRIBUTION AND TRADE COMPLIANCE
740 East Campbell Road
Richardson, TX 75081

Re: Maintenance tool set; Modification of HQ 964478.

DEAR MR. LANE:

This is with respect to HQ 964478 issued to you November 16, 2001, which involved the classification, under the Harmonized Tariff Schedule of the United States ("HTSUS"), of the Ericsson Inc. maintenance tool set (LTT 408 38). We have reviewed the classification set forth in HQ 964478 and have determined that a portion of the holding is incorrect. This ruling sets forth the correct classification.

Facts:

In HQ 964478, the tool set was described as follows:

You state that the maintenance tool set "is designed specifically for use in the installation and maintenance of telecommunication equipment, which will be installed on site, by Ericsson personnel."

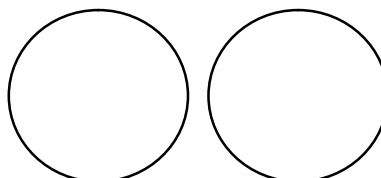
The tool set includes the following items: wera slotted screwdriver (part # ESD 1578 A); tension tool (model GS2B); knipex pliers; snipe-nose pliers; wera screwdriver bit holder with screwdriver bits; rahsol torque driver (part LSC 21001); hexagon key; DT 320 digital multitester; wrist strap; fiber optics (rubber cap with optical fiber attached); mini maglite® electric torch with nonrechargeable alkaline batteries; and a molded plastic carry case. The carry case, which has a soft foam plastic insert, is not lined or specially shaped or fitted, but does snugly contain all of the items.

Issue:

What is the classification under the HTSUS of the maintenance tool set?

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined



according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

In HQ 964478, we stated in pertinent part as follows:

After careful consideration, we find that the subject tool set is described in subheading 8206.00.00, HTSUS, in that it meets the terms of the subheading, as well as the EN. In this regard, we determine that the items in the tool set which are not themselves described in headings 8202 through 8205 (see above) do not change the essential character of the subject good, which is a tool set containing tools of two or more of headings 8202 through 8205. The items within the tool set which are not described in headings 8202 through 8205 serve to assist in the work performed by the tools of heading 8202 through 8205 and are auxiliary in nature to the central function of the tools of headings 8202 through 8205. The essential purpose of the tool set is to permit the user to engage in maintenance work via the use of the tools of headings 8202 through 8205.

Therefore, according to the terms of subheading 8206.00.00, HTSUS, the rate of duty for the maintenance tool set is the rate of duty applicable to that article in the set subject to the highest rate of duty. The article in the set which has the highest rate of duty is the molded plastic carry case which is classified in subheading 4202.12.20.10, HTSUS, as: "Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels and similar containers: * * * With outer surface of plastics or of textile materials: With outer surface of plastics * * * Structured, rigid on all sides: Attache cases, briefcases and similar containers."

The maintenance tool set is classified in subheading 8206.00.00, HTSUS, as: "Tools of two or more of headings 8202 to 8205, put up in sets for retail sale." The general rate of duty is: "The rate of duty applicable to that article in the set subject to the highest rate of duty," i.e., the rate of duty for the molded plastic carry case which is classified in subheading 4202.12.20.10, HTSUS.

This modification relates to the classification of the molded plastic carry case. EN 42.02 provides in pertinent part as follows: "This heading **does not cover:** * * * (f) Tool boxes or cases, not specially shaped or internally fitted to contain particular tools with or without their accessories (generally, **heading 39.26 or 73.26**)." [Emphasis in original.] The plastic carry case at issue here is within the scope of this exclusion from heading 4202, HTSUS. Therefore, it is provided for in heading 3926, HTSUS, and is classified in subheading 3926.90.98, HTSUS, as: "Other articles of plastics * * * : * * * Other: * * * Other."

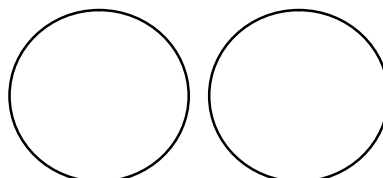
Because the rate of duty of subheading 3926.90.98, HTSUS, is less than the rate of duty of subheading 4202.12.20, HTSUS, we must reexamine which of the items in the tool set carries the highest rate of duty.

If imported separately, the items in the tool set would be classified in the following HTSUS provisions: wera slotted screwdriver—subheading 8205.40.00; tension tool—subheading 8205.59.55; knipex pliers—subheading 8203.20.60; snipe-nose pliers—subheading 8203.20.60; hexagon key—subheading 8204.11.00; wera screwdriver bit holder—subheading 8466.10.80; screwdriver bits—subheading 8207.90.60; rahsol torque driver—subheading 8466.10.80; DT 320 digital multimeter—subheading 9030.31.00; wrist strap—subheading 8536.30.80; optic fiber flashlight extension—subheading 9013.80.90; mini maglite® electric torch with batteries—subheading 8513.10.20 for electric torch, subheading 8506.10.00 for batteries; and molded plastic carry case—subheading 3926.98.90.

The provision which carries the highest rate of duty is subheading 8513.10.20, HTSUS, for the electric torch. Subheading 8513.10.20, HTSUS, provides for: "Portable electric lamps * * * : Lamps: Flashlights."

Holding:

The maintenance tool set is classified in subheading 8206.00.00, HTSUS, as: "Tools of two or more of headings 8202 to 8205, put up in sets for retail sale." The general rate of duty is: "The rate of duty applicable to that article in the set subject to the highest rate of



14 CUSTOMS BULLETIN AND DECISIONS, VOL. 36, NO. 7, FEBRUARY 13, 2002

duty," i.e., the rate of duty for the electric torch which is classified in subheading 8513.10.20, HTSUS.

Effect on Other Rulings:

HQ 964478 is modified.

JOHN DURANT,
Director,
Commercial Rulings Division.

PROPOSED REVOCATION OF RULING LETTER AND
TREATMENT RELATING TO TARIFF CLASSIFICATION OF
RUBBER COATED STEEL SHEET

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of ruling letter and treatment relating to the tariff classification of rubber coated steel sheet.

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 Customs intends to revoke a ruling relating to the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of rubber coated steel sheet, and to revoke any treatment Customs has previously accorded to substantially identical transactions. These articles are carbon steel and stainless steel sheet of varying widths coated with liquid rubber on both sides, then heated to vulcanize the rubber into a solid coating. The merchandise is used to manufacture automotive brake shims and gaskets. Customs invites comments on the correctness of the proposed action.

DATE: Comments must be received on or before March 15, 2002.

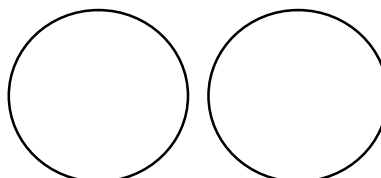
ADDRESS: Written comments are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at the same location during regular business hours.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Commercial Rulings Division (202) 927-0760.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), became effective. Title VI amended many sec-

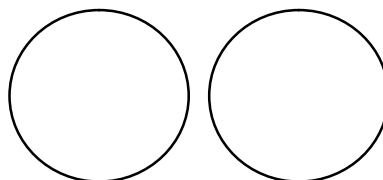


tions of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **informed compliance** and **shared responsibility**. These concepts are based on the premise that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's rights and responsibilities under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484, 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 declare value on imported merchandise, and to provide other necessary information to enable Customs to properly assess duties, collect accurate statistics and determine whether any other legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to revoke a ruling relating to the tariff classification of steel sheet coated on both sides with rubber. Although in this notice Customs is specifically referring to one ruling, NY E87780, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been identified. Any party who has received an interpretative ruling or decision (i.e., ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice, should advise Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUS. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or his agents for importations of merchandise subsequent to this notice.

In NY E87780, dated October 26, 1999, rubber coated carbon steel sheet and rubber coated stainless steel sheet were held to be classifiable in provisions of headings 7210, 7212, 7219 and 7220, HTSUS, as flat-rolled products of nonalloy steel and of stainless steel, respectively. This ruling was based on the belief that coating with rubber was a surface fin-



ishing treatment to improve the properties or appearance of the metal that would not remove the product from the flat-rolled provisions. *NY E87780* is set forth as "Attachment A" to this document.

It is now Customs position that this merchandise is classifiable as other articles of iron or steel, in subheading 7326.90.85, HTSUS. Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to revoke *NY E87780* and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis in proposed *HQ 964872*, which is set forth as "Attachment B" to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment it previously accorded to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

Dated: January 24, 2002.

JOHN ELKINS,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, October 26, 1999.
CLA-2-72:RR:NC:J:117 E87780
Category: Classification
Tariff No. 7210.70.30(EN), 7210.90.90(EN),
7212.40.10(EN), 7212.40.50(EN), 7212.50.00(EN),
7219.90.00(EN), and 7220.90.00(EN)

MR. CRAIG M. SCHAU
EMERY CUSTOMS BROKERS
*6940A Engle Road
Middleburg Heights, OH 44130*

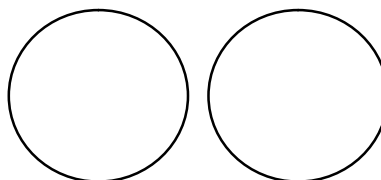
Re: The tariff classification of rubber coated steel sheet from Japan.

DEAR MR. SCHAU:

In your letter dated September 24, 1999 on behalf of Freudenberg NOK, you requested a tariff classification ruling. Descriptive literature and a representative sample of the product to be imported were submitted with your request.

The product to be imported is known as NOK Softmetal. There are two types of NOK Softmetal, rubber coated carbon steel sheet and rubber coated stainless steel sheet. These products will ultimately be used in the manufacture of brake shims and gaskets. The NOK Softmetal material is produced in the following manner. The carbon steel or stainless steel substrate is coated on both sides with a very thin layer of liquid adhesive which is dried. The dried adhesive surface is then coated with the desired thickness of liquid rubber and heat is applied to vulcanize the liquid rubber coating into a solid. The rubber surfaces are then coated with either graphite or resin to avoid sticking and to minimize sliding friction. These rubber coated steel sheets will be imported in various widths.

The Subheading Explanatory Notes to heading 7210 state that for the purpose of the subheadings of heading 7210, products subjected to more than one type of coating, plat-



ing, or cladding are to be classified according to the last process. The Subheading Explanatory Notes to heading 7212 state that the Explanatory Note to the subheadings of heading 7210 should be referred to in respect to products subjected to more than one type of coating, plating or cladding.

The applicable subheading for the rubber coated carbon steel sheet of a width of 600 mm or more which has been additionally coated with resin (plastic) will be 7210.70.30(EN), Harmonized Tariff Schedule of the United States (HTS), which provides for flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, clad, plated or coated, painted, varnished or coated with plastics, not coated or plated with metal and not clad. The rate of duty will be 2.6 percent ad valorem.

The applicable subheading; for the rubber coated carbon steel sheet of a width of 600 mm or more which has been additionally coated with graphite will be 7210.90.90(EN), HTS, which provides for flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, clad, plated or coated, other; other; other. The rate of duty will be 3.2 percent ad valorem.

The applicable subheading for the rubber coated carbon steel sheet of a width of less than 600 mm but not less than 300 mm which has been additionally coated with resin (plastic) will be 7212.40.50(EN), HTS, which provides for flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, clad, plated or coated, painted, varnished or coated with plastics, other. The rate of duty will be 2.6 percent ad valorem.

The applicable subheading for the rubber coated carbon steel sheet of a width of less than 300 mm which has been additionally coated with resin (plastic) will be 7212.40.10(EN), HTS, which provides for flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, clad, plated or coated, painted, varnished or coated with plastics, of a width of less than 300 mm. The rate of duty will be 1.7 percent ad valorem.

The applicable subheading for the rubber coated carbon steel sheet of a width of less than 600 mm which has been additionally coated with graphite will be 7212.50.00(EN), HTS, which provides for flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, clad, plated or coated, otherwise plated or coated. The rate of duty will be 3.2 percent.

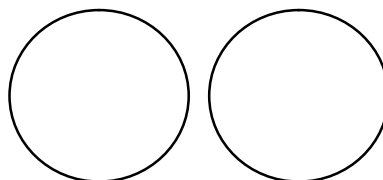
The applicable subheading for the rubber coated stainless steel sheet of a width of 600 mm or more which has been additionally coated with either resin or graphite will be 7219.90.00(EN), HTS, which provides for flat-rolled products of stainless steel, of a width of 600 mm or more, other. The rate of duty will be 3 percent ad valorem.

The applicable subheading for the rubber coated stainless steel sheet of a width of less than 600 mm which has been additionally coated with either resin or graphite will be 7220.90.00(EN), HTS, which provides for flat-rolled products of stainless steel, of a width of less than 600 mm, other. The rate of duty will be 28 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry.

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



[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR:CR:GC 964872 JAS
Category: Classification
Tariff No. 7326.90.85

MR. CRAIG M. SCHAU
EMERY CUSTOMS BROKERS
6940A Engle Road
Middleburg Heights, OH 44130

Re: NY E87780 Revoked; Rubber Coated Steel Sheet.

DEAR MR. SCHAU:

In NY E87780, which the Director of Customs National Commodity Specialist Division, New York, issued to you on October 26, 1999, on behalf of Freudenberg NOK, carbon steel sheet and stainless steel sheet, coated on both sides with rubber, were held to be classifiable as flat-rolled products in provisions of headings 7210, 7212, 7219 and 7220, Harmonized Tariff Schedule of the United States (HTSUS), respectively. We have reconsidered this classification and now believe that it is incorrect.

Facts:

The merchandise in NY E87780, described as NOK Softmetal, is rubber coated carbon steel sheet and rubber coated stainless steel sheet. The steel substrate is first coated on both sides with a liquid adhesive, which is allowed to dry. This surface is then coated to the desired thickness with liquid rubber, and heat applied to vulcanize the liquid rubber into a solid. The rubber surface is then coated with either graphite or plastic resin to avoid sticking and to minimize sliding friction. The merchandise is imported in various widths and, after importation, is used in automotive applications for the manufacture of brake shims and head gaskets for internal combustion engines.

The HTSUS provisions under consideration are as follows:

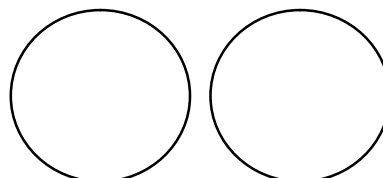
4016	Other articles of vulcanized rubber other than hard rubber
*	* * * * *
7210	Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, clad, plated or coated
*	* * * * *
7212	Flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, clad, plated or coated
*	* * * * *
7219	Flat-rolled products of stainless steel, of a width of 600 mm or more
*	* * * * *
7220	Flat-rolled products of stainless steel, of a width of less than 600 mm
*	* * * * *
7326	Other articles of iron or steel:
7326.90	Other
7326.90.85	Other

Issue:

Whether steel sheet coated with rubber, as described, remains a flat-rolled product for tariff purposes.

Law and Analysis:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6. GRI 3(b) states in part that composite goods are to be classified as if consisting of that material or component which imparts the essential character to the whole. GRI 3(c) states that goods which cannot be classified ac-



ording to GRI 3(b) are to be classified in the heading which occurs last in numerical order from among those which equally merit consideration.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. Though not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS. Customs believes the ENs should always be consulted. *See* T.D. 89-80. 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

The General Explanatory Notes to chapter 72, HTSUS, state on p. 1070 that finished products of that chapter may be subjected to further finishing treatments or converted into other articles by surface treatments or other operations *to improve the properties or appearance of the metal, protect it against rusting or corrosion, etc.* (Emphasis added). Except as provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified. On p. 1071, the Notes state that such authorized surface treatments include coating with non-metallic substances, e.g., enamelling, varnishing, lacquering, painting, surface printing, coating with ceramics or plastics.

The decision in NY E87780 was based on the conclusion that coating steel sheet with rubber on both sides, and further coating the product with graphite or plastic resin, was designed to improve the properties or appearance of the metal, protect it against rusting, corrosion, etc. This constituted a permissible surface treatment that allowed the goods to remain in the respective headings of chapter 72. This position is incorrect and no longer represents Customs position in the circumstances.

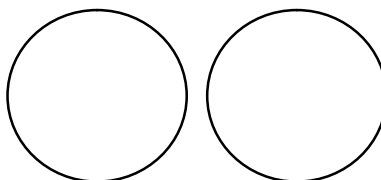
In HQ 964609, dated July 30, 2001, substantially similar merchandise was found to be classifiable as an article of iron or steel of heading 7326, HTSUS. That decision provides an analysis we deem instructive in the present situation. HQ 964609 cited with approval HQ 083126, dated February 13, 1990, which held that the coating of stainless steel sheet with nitrile butadiene vulcanized rubber *does not* constitute a permissible "further working" of the steel intended to improve the properties or appearance of the metal, to protect it against rusting, corrosion, etc. HQ 083126 found the merchandise to be a composite good consisting of different materials or components that requires classification under GRI 3, HTSUS. The rubber-coated steel sheet in that ruling was described as being specially designed and manufactured for the production of gaskets used in internal combustion engines. Its use elsewhere was said to be economically prohibitive. One of the most important features of the article is that its surface is soft so that the gasket can obtain a good seal. Stainless steel alone cannot be used as a gasket because it is too hard to conform to the surface of a flange and to form the required seal. Coating the steel with a thin layer of rubber results in an ideal article for the production of gaskets, one having the strength of steel and the softness of rubber. The statement in HQ 083126, "[e]ven if coating with rubber were to be considered a surface treatment such as coating with plastics, in this case it would not be for improving the properties or appearance of the metal, protecting it, or the like" is particularly relevant here.

It is clear that the rubber coating in this case is not designed to enhance the metal; rather, it is a functional constituent designed to effect a good seal. Thus, the rubber component, described by heading 4016, advances the stainless steel sheet beyond a flat rolled product described in headings 7210, 7212, 7219 and 7220. Further, the analysis in HQ 083126 concerning the rigidity of the steel and its ability to be cut into various shapes, is equally compelling. For these reasons, we are unable to establish the essential character of the NOK Softmetal under GRI 3(b). Therefore, we find that under GRI 3(c) the carbon steel and stainless steel sheet coated with a nitrite synthetic rubber compound and either graphite or plastic resin is to be classified in heading 7326, as the heading that occurs last in numerical order among the enumerated headings, all of which merited consideration.

Holding:

Under the authority of GRI 3(c), rubber coated carbon steel and stainless steel sheet designated NOK Softmetal is provided for in heading 7326. It is classifiable in subheading 7326.90.85, HTSUS. NY E87780, dated October 26, 1999, is revoked.

JOHN DURANT,
Director,
Commercial Rulings Division.



PROPOSED MODIFICATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO TARIFF
CLASSIFICATION OF A THERMAL GRAVY SERVER

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed modification of a ruling letter and revocation of treatment relating to the tariff classification of a thermal gravy server.

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 Customs intends to modify a ruling letter pertaining to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a thermal gravy server and to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Comments are invited on the correctness of the intended action.

DATE: Comments must be received on or before March 15, 2002.

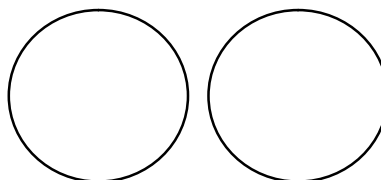
ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the same address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Keith Rudich, Commercial Rulings Division, (202) 927-2391.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility.**" These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs 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 us-



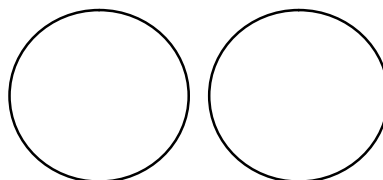
ing reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of a thermal gravy server. Although in this notice Customs is specifically referring to one ruling, NY D84883, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise the Customs Service during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States (HTSUS). Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise the Customs Service 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 their agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

In NY D84883, dated December 18, 1998, set forth as "Attachment A" to this document, in addition to another article not herein relevant, Customs found that the thermal gravy server (Part 1723) was classified in subheading 3924.10.50, HTSUS, which provides for Tableware, kitchenware, other household articles and toilet articles, of plastics: other. Customs has reviewed the matter and determined that the correct classification of the thermal gravy server is in subheading 9617.00.10, HTSUS, which provides for vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners: having a capacity not exceeding 1 liter.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to modify NY D84883 and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed Headquarters Ruling Letter (HQ) 964889 (see "At-



tachment B” to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: January 29, 2002.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
New York, NY, December 18, 1998.
CLA-2-39:RR:NC:SP:222 D84883
Category: Classification
Tariff No. 3924.10.5000

MR. EDWARD N. JORDAN
EXPEDITORS INTERNATIONAL OF WASHINGTON, INC.
*601 North Nash Street
E1 Segundo, CA 90245*

Re: The tariff classification of plastic kitchen articles from China.

DEAR MR. JORDAN:

In your letter dated November 10, 1998, on behalf of your client Metro Marketing Corporation, you requested a tariff classification ruling.

You have submitted two samples of kitchen articles.

The first sample is identified as 1 item (part number) 1723. It is a thermal, 2-cup capacity gravy server. This item has a plastic exterior and a plastic screw top cover. The base of the server is lined on the inside with a thin sheet of glass to provide insulation. The gravy server will be used as a tableware item to keep liquids warm and to serve liquids.

The second sample is identified as item (part number) 1519, a 27 piece kitchen organizer. The kitchen organizer consists of a revolving holder that is made of stainless steel. A sturdy plastic piece made with hooks and slots fits inside the stainless steel holder. The following items are contained in the holder: 1 stainless steel whisk, a 5 piece plastic spatula/spoon set, a 4 piece plastic measuring cup set, a 5 piece plastic measuring spoon set, 1 stainless steel, plastic-handled bottle/can opener, 1 stainless steel, plastic-handled bottle opener, 1 stainless steel, plastic-handled pizza cutter, 1 stainless steel, plastic-handled potato peeler and a 6 piece stainless steel, plastic-handled knife set.

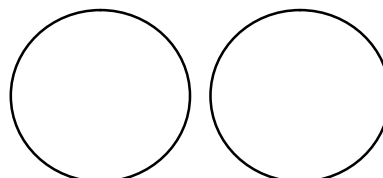
Your letter of inquiry states that the kitchen organizer and utensils will be imported and marketed together as a set. They will be used as kitchenware utensils for the preparation and serving of food. For both items, (gravy server and kitchen organizer) the essential character is imparted by the plastic components.

Both samples are returned as you requested.

The applicable subheading for both of the above mentioned samples will be 3924.10.5000, Harmonized Tariff Schedule of the United States (HTS), which provides for tableware, kitchenware, other household articles * * * of plastics: tableware and kitchenware: other. The rate of duty will be 3.4 percent ad valorem.

The rate of duty will remain unchanged in the coming year.

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



U.S. CUSTOMS SERVICE

23

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 Alice Masterson at 212-466-5892.

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

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR:CR:GC 964889 KBR
Category: Classification
Tariff No. 9617.00.10

MR. ED JORDAN
EXPEDITORS INTERNATIONAL
5200 West Century Boulevard, 6th Floor
Los Angeles, CA 90045

Re: Reconsideration of NY D84883; Thermal gravy server.

DEAR MR. JORDAN:

This is in reference to your letter of August 30, 2000, to the Customs National Commodity Specialist Division, requesting reconsideration of New York Ruling Letter (NY) D84883, issued to you by that office on December 18, 1998, concerning the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a thermal gravy server and a 27 piece kitchen organizer. This ruling concerns only the thermal gravy server.

Facts:

The product is a thermal, 2-cup capacity gravy server, part number 1723. The thermal gravy server has a plastic exterior and a plastic screw top cover. The base of the thermal server is lined on the inside with a thin sheet of glass to provide insulation. The thermal server has a vacuum, double-walled glass inner liner. The ruling classified the article in subheading 3924.10.50, HTSUS, which provides for tableware, kitchenware, other household articles, of plastics: other.

In your submission dated April 29, 1999, you stated that the thermal gravy server was not described fully in the original ruling request. You stated that the description of the article should have included that the article had a vacuum, double-walled glass inner liner. Examination of the sample of the article you submitted revealed that the article was a vacuum vessel.

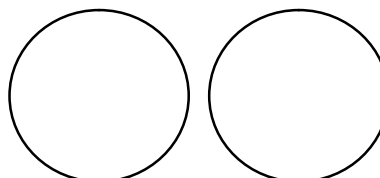
Issue:

What is the correct classification of the thermal gravy server?

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

In interpreting the headings and subheadings, Customs looks to the Harmonized Commodity Description and Coding System Explanatory Notes (EN). Although not legally binding, they provide a commentary on the scope of each heading of the HTSUS. It is Cus-



toms practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

- 3924 Tableware, kitchenware, other household articles and toilet articles, of plastics:
- 3924.10 Tableware and kitchenware:
- 3924.10.50 Other
- 9617.00 Vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners:
 - Vessels:
 - 9617.00.10 Having a capacity not exceeding 1 liter

The EN for 96.17 states that the heading covers:

Vacuum flasks and other similar vacuum vessels, provided they are complete with the cases. This group includes vacuum jars, jugs carafes, etc., designed to keep liquids, food or other products at fairly constant temperature, for reasonable periods of time. These articles consist of a double-walled receptacle (the inner), generally of glass, with a vacuum created between the walls, and a protective outer casing of metal, plastics or other material, sometimes covered with paper, leather, leathercloth, etc. The space between the vacuum container and the outer casing may be packed with insulating material (glass fibre, cork, or felt). In the case of vacuum flasks the lid can often be used as a cup.

Customs based its determination in NY D84883, on the information originally provided. Customs was not provided with information concerning the vacuum, double-walled glass inner liner of the article. After Customs received the additional information and the sample, the Customs laboratory confirmed that the article had a vacuum, double-walled glass inner liner.

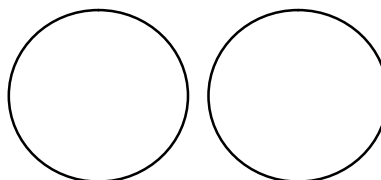
Customs found in NY A86506 dated October 8, 1996, that a thermal carafe with an vacuum, double-walled inner glass liner was properly classified in subheading 9617.00.10, HTSUS. We find the article in the instant case to be similar to that in NY A86506. Therefore, in consideration of the additional information and pursuant to EN 96.17, Customs finds that the correct classification for the thermal gravy server is in subheading 9617.00.10, HTSUS, as vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners: having a capacity not exceeding 1 liter.

Holding:

In accordance with the above discussion, the thermal gravy server is classified in subheading 9617.00.10, HTSUS, as vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners: having a capacity not exceeding 1 liter.

NY D84883 dated December 18, 1998, is **modified** with respect to the thermal gravy server (part number 1723), as set forth herein. The classification of the kitchen organizer is not affected by this ruling.

JOHN DURANT,
Director,
Commercial Rulings Division.



PROPOSED REVOCATION OF RULING LETTER AND
TREATMENT RELATING TO TARIFF CLASSIFICATION OF
CERTAIN TEXTILE LACE CAP AND HEADBAND WIG
ACCESSORIES

AGENCY: U.S. Customs Service; Department of the Treasury.

ACTION: Notice of proposed revocation of tariff classification ruling letter and treatment relating to the classification of certain textile lace cap and headband wig accessories.

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 Customs intends to revoke one ruling relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of certain textile lace cap and headband wig accessories. Similarly, Customs proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before March 15, 2002.

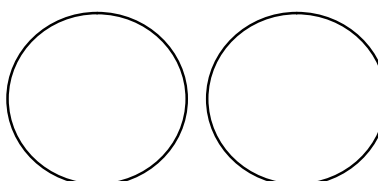
ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Textiles Classification Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at the same location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Timothy Dodd, Textiles Branch: (202) 927-1735.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as



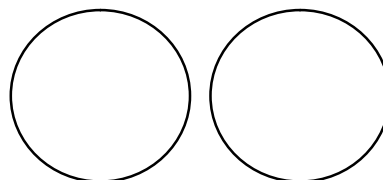
amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to revoke one ruling relating to the tariff classification of certain textile lace wig accessories. Although in this notice Customs is specifically referring to one New York Rulings Letter (NY), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise Customs during this notice period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by Customs to substantially identical merchandise. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUS. Any person involved with substantially identical merchandise should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical merchandise or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importers or their agents for importations of merchandise subsequent to this notice.

In New York Ruling Letter (NY) B82405, dated March 24, 1997, the Customs Service classified certain textile lace cap and headband wig accessories under subheading 6117.80.9540, HTSUSA, which covers other made up clothing accessories. NY B82405 is set forth as "Attachment A" to this document.

It is now Customs determination that the proper classification for the certain textile lace cap and headband wig accessories is subheading 6505.90.60, HTSUSA, which provides "Hats and other headgear, knitted or crocheted * * * Other: Of man-made fibers: Knitted or crocheted or made up from knitted or crocheted fabric: Not in part of braid." Proposed Headquarters Ruling Letter (HQ) 965180 revoking NY B82405 is set forth as "Attachment B" to this document.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to revoke NY B82405, and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed HQ 965180, *supra*. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously ac-



U.S. CUSTOMS SERVICE

27

corded by Customs to substantially identical merchandise. Before taking this action, consideration will be given to any written comments timely received.

Dated: January 29, 2002.

JOHN ELKINS,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, March 24, 1997.
CLA-2-61:RR:NC:WA:353 B 82405
Category: Classification
Tariff No. 6117.80.9540

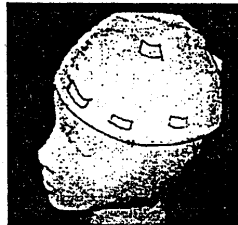
MR. RICKY VILLENA
H.L.M. CARGO CLEARANCE BROKERS, INC.
P.O. Box 652623
Miami, FL 33265-2623

Re: The tariff classification of wig accessories from China.

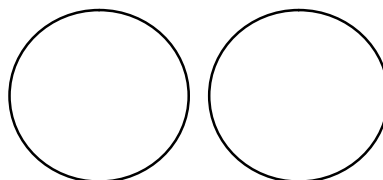
DEAR MR. VILLENA:

In your letter dated January 17, 1997, received in our office on February 17, 1997, you requested a classification ruling on behalf of True Silver Corp. Two samples were submitted for examination.

The submitted samples, stated to be made from 90% polyester and 10% Lycra, consist of a textile lace cap and headband that will be utilized to secure a wig onto the head. It is stated that they will be used for the general public and cancer patients with no hair. Each of the samples feature velcro strips on the outer surface to which the wig will be attached and hook and eye closures at the rear which allow the item to be sized for the head. The samples are of a knit construction.



The applicable subheading for the wig accessories will be 6117.80.9540, Harmonized Tariff Schedule of the United States (HTS), which provides for "Other made up clothing accessories, knitted or crocheted; knitted or crocheted parts of garments or of clothing accessories: Other accessories: Other. * * * Other: Of man-made fibers: Other." The duty rate will be 15.2 percent ad valorem.



The wig accessories falls within textile category designation 659. Based upon international textile trade agreements, products of China are subject to quota and the requirement of a visa.

The designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes. To obtain the most current information available, we suggest that you check, close to the time of shipment, the *Status Report on Current Import Quotas (Restraint Levels)*, an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

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 Martin Weiss at 212-466-5881.

PAUL K. SCHWARTZ,
*Chief, Textile & Apparel Branch,
National Commodity Specialist Division.*

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.
CLA-2 RR:CR:TE 965180 ttd
Category: Classification
Tariff No 6505.90.6045 and 6505.90.6090

MR. RICKY VILLENA
H.L.M. CARGO CLEARANCE BROKERS, INC.
P.O. Box 652623
Miami, FL 33265-2623

Re: Reconsideration of New York Ruling Letter B82405, dated March 24, 1997.

DEAR MR. VILLENA:

This letter concerns New York Ruling Letter (NY) B82405, dated March 24, 1997, regarding the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of a textile lace cap and a textile lace headband. After review of that ruling, Customs has determined that the classification of the textile lace cap and headband in subheading 6117.80.9540, HTSUSA, was incorrect. For the reasons that follow, this ruling revokes NY B82405.

Facts:

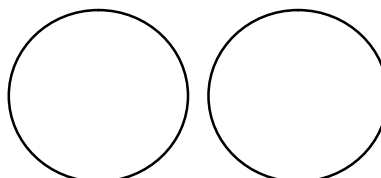
In NY B82405, Customs classified the merchandise at issue in heading 6117, HTSUSA, as clothing accessories. The subject articles were described as a textile lace cap and a textile lace headband. Both articles are of a knit construction made from 90 percent polyester and 10 percent lycra. It is stated that these items will be used by the general public and cancer patients without hair to secure a wig onto the head. Each item features hook and loop tape on the outer surface to which the wig will be attached, and hook and eye closures at the rear that allow the items to be sized for the head.

Issue:

Whether the merchandise should be classified under heading 6117, HTSUSA, as clothing accessories; heading 6507, HTSUSA, as head-bands and linings and part linings; heading 6505, HTSUSA, as other headgear; or heading 6307, HTSUSA, as other made up textile articles.

Law and Analysis:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides, in part, that classification decisions shall be deter-



mined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

One of the four possible headings in which the subject merchandise may be classified is heading 6117, HTSUSA, which provides for "other made up clothing accessories, knitted or crocheted; knitted or crocheted parts of garments or of clothing accessories." Neither "clothing" nor "accessory" is defined in the tariff schedule or EN. In Headquarters Ruling Letter (HQ) 961167, dated November 28, 2000, Customs found that "clothing" is synonymous with the terms "apparel" and "garment," meaning " * * * articles which cover the trunk of the body." Moreover, Mary Brooks Picken's, *The Fashion Dictionary* (page 1) defines "accessory" as an article of apparel that completes the costume such as shoes, gloves, hats, bags, jewelry, neckwear, belts, boutonnieres, scarves. *Merriam-Webster's Collegiate Dictionary Online*, (2001), defines "accessory" as a thing of secondary or subordinate importance or an object or device not essential in itself but adding to the beauty, convenience, or effectiveness of something else. In HQ 088540, dated June 3, 1991, Customs defined "accessory" as an article that is related to the primary article, and intended for use solely or principally with a specific article.

In HQ 084857, dated June 28, 1989, and HQ 081945, dated January 29, 1990, Customs ruled that accessories to shoes are not considered clothing accessories of heading 6217, HTSUSA. HQ 084857 stated in pertinent part:

[I]n order to be classifiable under Heading 6217, an article must be a clothing accessory. In our view, shoes are commonly considered to be apparel accessories and not "clothing", and, while shoe covers may be considered to be shoe accessories, accessories of clothing accessories are not within the purview of Heading 6217.

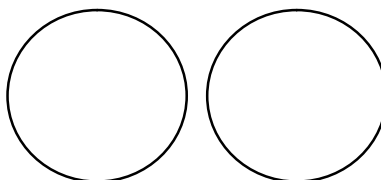
This line of reasoning also extends to "clothing accessories" of heading 6117, HTSUSA. See HQ 963531, dated June 1, 2000; and HQ 963535, dated June 1, 2000. Therefore, in heading 6117, HTSUSA, accessories classifiable under this provision will be related to clothing, intended for use with clothing and of secondary importance to clothing. HQ 950470, dated January 7, 1992.

Applying these principles to the textile cap and headband under consideration, Customs concludes that these items are not "used solely or principally as an accessory to clothing." The subject cap and headband are both accessories; however, they are not accessories to clothing but rather accessories to a wig. Each item is intended to be worn under a wig, serving as a wig liner, which adds to a wig's effectiveness by improving its comfort and fit. Moreover, each item is intended for use solely or principally with a wig as the primary article. Neither the subject cap nor headband is intended to be worn absent a wig, which is indicated by the fastener tapes visible on their outer surfaces to which a wig attaches. However, as a wig itself is not an article of clothing (a wig of human hair, animal hair or textile materials is classifiable under heading 6704, HTSUSA), the subject cap and headband are accessories for an item that is not an article of clothing. Therefore, the subject items are not properly classifiable as accessories to clothing under heading 6117, HTSUSA.

Customs has previously ruled that textile headbands, ponytail holders and similar articles are properly classifiable as other clothing accessories of heading 6117 and 6217, HTSUSA. See T.D. 96-24, 61 Fed. Reg. 10841 (Mar. 15, 1996). However, the subject headband is different than those considered in T.D. 96-24, which reads in pertinent part:

Textile headbands and ponytail holders accent or otherwise complete one's costume. In addition, these articles can be decorative and add to the beauty of one's costume or function to hold the hair in place and add to the effectiveness of one's costume. We believe textile headbands and ponytail holders meet the definition of accessory.

Accordingly, in T.D. 96-24, Customs determined that generally textile headbands meet the definition of "clothing accessories." The textile headbands considered in T.D. 96-24 were items which accented or otherwise completed one's costume. The headbands were



visible when worn and either decorative, adding to the beauty of one's costume, or functional, adding to the effectiveness of one's costume by holding the hair in place.

The subject headband is not the type of headband contemplated by T.D. 96-24 as a clothing accessory under heading 6117, HTSUSA. The subject headband functions to secure a wig to the head and make it fit more comfortably. It is designed to be worn under a wig and therefore, is not intended to be visible or decorative when used as intended. In contrast, the headbands described in T.D. 96-24 were plainly visible when worn and adorned an outfit either decoratively by its own appearance or functionally by holding one's hair in place. Therefore, while heading 6117, HTSUSA, is the appropriate heading for most textile headbands, it does not apply to the instant textile headband.

Chapter 65, HTSUSA, provides for among other things, headgear and parts thereof. While a general EN exclusion to Chapter 65 states that Chapter 65 does not include *inter alia* wigs and the like of heading 6704, HTSUSA, the subject wig accessories are not precluded from being classifiable in Chapter 65. The subject cap and headband are potentially classifiable under two provisions in Chapter 65, HTSUSA, as headbands and linings under heading 6507, HTSUSA, and as hats and other headgear under heading 6505, HTSUSA.

Heading 6507, HTSUSA, includes "headbands, linings, covers, hat foundations, hat frames, peaks (visors) and chinstraps for headgear." The EN to heading 6507 lists specific fittings for headgear and states that only those items listed are covered by the heading. The EN lists headbands and linings and part linings, which are described as follows:

- (1) **Head-bands** for fitting on the edge of the crown. These are usually of leather, but may also be of composition leather, of oiled cloth or other coated fabric, etc. They are classified in this heading **only** when cut to length or otherwise ready for incorporation in the headgear. They frequently bear an inscription of the hat-maker's name, etc.
- (2) **Linings and part linings** normally made of textile material but sometimes of plastics, leather, etc. These also usually bear a printed indication of the hat-maker's name, etc.

According to the EN, the headbands, linings and part linings cited in heading 6507, HTSUSA, are components used in the construction of headgear.

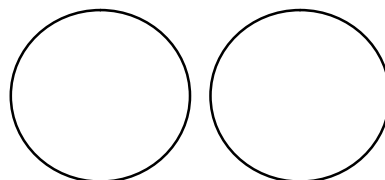
The exemplar head-bands in the EN of heading 6507 represent items that are used in making hats or headgear. In contrast, the subject cap and headband are not specific fittings for headgear but rather completed articles, not incorporated into articles of headgear. Therefore, the subject articles are not *ejusdem generis* or "of the same kind" of merchandise as the exemplars cited in the EN to 6507, HTSUSA. Accordingly, neither the subject cap nor headband are properly classifiable under heading 6507, HTSUSA.

Heading 6505, HTSUSA, provides for "Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed." The EN to heading 6505, HTSUSA, provide that the range of headgear embraced by the heading includes hats made up from textile fabric, berets, skull-caps, fezzes, peaked caps, mortarboards, nurses' headcaps, nuns' headdresses, pith helmets, sou'westers, hoods, and top hats. The EN to heading 6505, HTSUSA, also state that the heading includes hair-nets, snoods, and the like, of any material. Moreover, the broad language of the EN state that Chapter 65 covers "other headgear of all kinds, irrespective of the materials of which they are made and of their intended use (daily wear, theatre, disguise, protection, etc.)."

The Random House Dictionary of the English Language, the Unabridged Edition (1983) defines "headgear" as "any covering for the head, esp. a hat, cap, bonnet, etc." *The Encyclopedia Americana* (International Edition 1980) describes the term "hat" as follows:

HAT, strictly, a head covering that has a crown and a brim. Loosely, the term is used for many kinds of headgear. Since earliest times, men have created a great range of headgear, from fitted caps to draped or wrapped veils, turbans and bands. Almost every kind of material has been used—fur, fabric, metal, straw, horns, jewels, feathers, flowers, lace, glass and synthetic materials.

The subject cap satisfies the definition of "headgear" as it is a covering for the head. Though not specifically referenced in the EN, the subject cap is headgear within the intended scope of Chapter 65. Further, the cap under consideration is similar to several of the exemplars cited in the EN to heading 6505, namely skull-caps, hair-nets, snoods and the like. The subject cap is brimless and fits the head snugly like a skull-cap, swim cap, hair-net, or knit cap. See NY G86364, dated February 12, 2001 (tie hat similar to a skull-cap classified under heading); NY D88490, dated March 31, 1999 (child's swim cap classi-



fied under heading 6505); NY D85956, dated January 6, 1999 (hairnet classified under heading 6505); and NY B87125 (knit hat classified under heading 6505). Similar to the subject cap, skull-caps and other small caps may be worn under other headgear articles, such as helmets and turbans. See NY G86364 (cited above). Given the broad definition of headgear and the expansive language of the EN, the subject cap falls within the scope of Chapter 65, HTSUSA, and is properly classifiable under heading 6505, HTSUSA.

Among multiple examples of headgear, Mary Brooks Picken's, *The Fashion Dictionary* (3rd ed. 1973), provides for an open-crown hat, a "hat with complete brim and partial crown, the center being left open so that hair shows through." Picken's at 180. Similarly, turbans include an open-crown version. Picken's at 184. In HQ 962450, dated August 23, 1999, Customs ruled that a "u" shaped sun visor made of neoprene material is properly classifiable as headgear in heading 6505, HTSUSA. Also, in NY G86364, Customs classified a removable headband shaped hat liner that is worn under a hard hat as a specific fitting for headgear in heading 6507, HTSUSA.

The headband at issue functions the same as the subject cap; it is worn under a wig to secure the wig and make it fit more comfortably. Moreover, identical to the cap under consideration, the subject headband is headgear within the intended scope of Chapter 65, HTSUSA. The instant headband encircles the head without covering the crown of the head in the same manner as the sun visor in HQ 962450, the removable headband shaped hat liner in NY G86364, and the open-crowned examples cited above in *The Fashion Dictionary*. Just like the headband shaped hat liner in NY G86364, the subject headband is not intended to be worn without another article nor visible when worn. Moreover, unlike a sweatband, the subject headband does not absorb perspiration, nor is its principal purpose to hold hair in place like a sweatband worn on the head. While the instant headband is not a specific fitting for headgear like the hat liner in NY G86364, it is itself an article of headgear. Based on the broad definition of headgear and language of the EN, combined with the similarities of the subject headband to other hats and headgear articles, the headband at issue is also properly classifiable under heading 6505, HTSUSA.

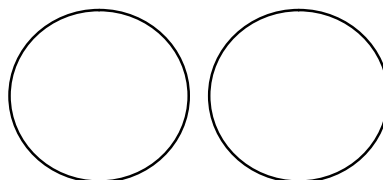
Heading 6307, HTSUSA, provides for other made up articles of textile materials. The EN to heading 6307 state that the heading covers made up articles of any textile material which are not included more specifically elsewhere in the tariff schedule. The textile cap and headband under consideration are more specifically provided for in heading 6505, HTSUSA. As such, the subject articles are not properly classifiable under heading 6307, HTSUSA.

As the subject cap and headband are each made of 90 percent polyester and 10 percent lycra and are of knit construction, they are both classifiable under subheading 6505.90.60, HTSUSA, which provides "Hats and other headgear, knitted or crocheted * * * Other: Of man-made fibers: Knitted or crocheted or made up from knitted or crocheted fabric: Not in part of braid."

Holding:

Based on the foregoing, the subject textile headband is classified in subheading 6505.90.6045, HTSUSA, the provision for "Hats and other headgear, knitted or crocheted * * * Other: Of man-made fibers: Knitted or crocheted or made up from knitted or crocheted fabric: Not in part of braid * * * Other: Other: Visors, and other headgear which provides no covering for the crown of the head." The subject textile cap is classified in subheading 6505.90.6090, HTSUSA, the provision for "Hats and other headgear, knitted or crocheted * * * Other: Of man-made fibers: Knitted or crocheted or made up from knitted or crocheted fabric: Not in part of braid * * * Other: Other: Other." The duty rate for each item will be 23.9 cents per kilogram plus 8.4% *ad valorem*. Both the cap and headband fall within textile category designation 659.

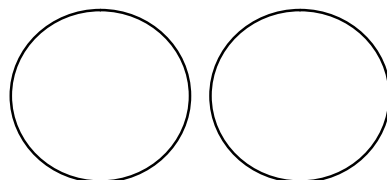
The designated textile and apparel category may be subdivided into parts. If so, the visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest you check, close to the time of shipment, the *Status Report On Current Import Quotas (Restraint Levels)*, an internal issuance of the U.S. Customs Service which is updated weekly and is available **for inspection** at your local Customs office. The *Status Report on Current Import Quotas (Restraint Levels)* is also available on the Customs Electronic Bulletin Board (CEBB) which can be found on the U.S. Customs Service Website at www.customs.gov.



32 CUSTOMS BULLETIN AND DECISIONS, VOL. 36, NO. 7, FEBRUARY 13, 2002

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact your local Customs office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

JOHN DURANT,
Director,
Commercial Rulings Division.



U.S. Customs Service

Proposed Rulemaking

19 CFR Parts 24, 123, 132, and 142

RIN 1515-AC92

PROCEDURES GOVERNING THE BORDER RELEASE ADVANCED SCREENING AND SELECTIVITY (BRASS) PROGRAM

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to provide for the Border Release Advanced Screening and Selectivity (BRASS) Program, an improved automated and electronic system that will replace the Line Release method of processing certain repetitive and high volume shipments of merchandise into the U.S. Like the present Line Release Program, the proposed BRASS Program will continue to provide for the expedited processing, through the use of computers and bar-code technology, of certain high-volume, repetitively-shipped merchandise that is imported at designated locations. The proposed BRASS Program regulations also will provide for the centralized processing of applications for BRASS processing privileges, and afford administrative appeal rights to applicants who are denied participation in the BRASS Program and to participants whose BRASS processing privileges are subsequently revoked.

DATES: Comments must be received on or before April 2, 2002.

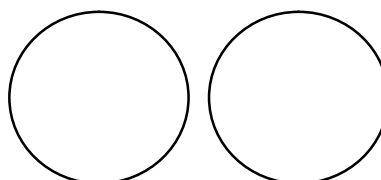
ADDRESSES: Written comments may be addressed to, and inspected at, U.S. Customs Service, Office of Regulations and Rulings, Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Enrique S. Tamayo, Office of Field Operations, Trade Programs, Cargo Release Branch; (202) 927-3112.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In 1992, Customs amended the Customs Regulations at part 142 (19 CFR part 142), which pertains to the entry process, to add a new subpart

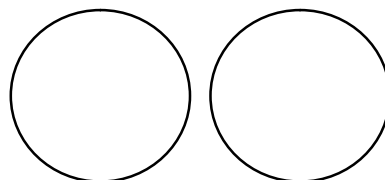


D to provide for the Line Release method of processing certain shipments of merchandise entering the U.S. *See*, T.D. 92-93. Line Release is an automated system designed to release and track, through the use of personal computers and bar-code technology, shipments of merchandise deemed by Customs to be repetitive and high-volume and that are imported at designated locations. Line Release was implemented as a Disc Operating System (DOS)-based program that interfaces with the Automated Commercial System (ACS). In 1999, the use of Line Release at certain high-risk locations along the land borders of the U.S. for shipments was conditioned on the imported merchandise being transported by carriers that participated in the Land Border Carrier Initiative Program (LBCIP). *See*, T.D. 99-2.

In the mid 1990s, Customs began developing the Border Release Advanced Screening and Selectivity (BRASS) Program. Like the present Line Release Program, the proposed BRASS Program will continue to provide for the expedited processing, through the use of computers and bar-code technology, of certain high-volume, repetitively-shipped merchandise that is imported at designated locations. Transactions may continue to be designated for either release under entry summary or release for immediate delivery. However, the BRASS Program is a windows-based program designed to improve and replace the DOS-based Line Release Program.

The proposed BRASS Program also improves upon the Line Release Program in two areas. First, the proposed BRASS Program provisions provide for the centralized processing of requests for BRASS privileges at designated border locations. (Under the present Line Release Program, a decentralized application procedure is followed, whereby applications are submitted to local port directors for approval, which can result in multi-port applications being approved at one port but denied at another port. Under the proposed BRASS Program provisions, a centralized application procedure is proposed, so that there will be uniform processing of applications.) The centralized locations are at Saint Albans, Vermont (for merchandise to be entered along the northern border), and San Diego, California (for merchandise to be entered along the southern border).

Second, the proposed BRASS Program provisions improve upon the Line Release Program by affording appeal procedures for applicants who are denied participation in the BRASS Program and participating entry filers whose BRASS privileges are subsequently revoked. Two levels of administrative appeal will be provided. The first level of appeal will be to the Director of Field Operations at the Customs Management Center, which oversees the BRASS Processing Center that issues a notice of nonselection (to applicants) or adverse action (to participants). Should the first appeal result in a negative determination, a second level of appeal may be taken to the Assistant Commissioner, Office of Field Operations. Under the present Line Release Program, there are no appeal provisions for applicants or participating entry filers.



Customs is now proposing in this document to replace the Line Release Program provisions at subpart D of part 142 of the Customs Regulations with provisions regarding the BRASS Program. The current 12 sections of this subpart (§§ 142.41–142.52) will be replaced with 6 sections (§§ 142.41–142.46) that will provide for the BRASS Program. The current provisions at §§ 142.47–142.52 will be removed from the Customs Regulations (19 CFR subpart D of part 142) and the information they contain that relates to BRASS will be consolidated. Conforming reference changes also will be made to §§ 24.23, 123.71, and 132.15. Participants already in the Line Release Program do not need to reapply for participation in the BRASS Program.

It is noted that further descriptive information regarding the BRASS Program will be provided in a new BRASS Handbook, available from Customs Headquarters and at ports of entry designated for BRASS use.

DISCUSSION OF PROPOSED AMENDMENTS TO THE REGULATIONS

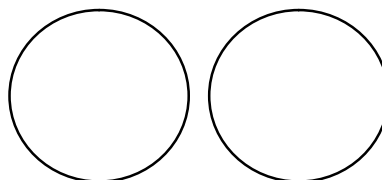
§ 142.41—“Description of BRASS program”

Under the heading “Description of BRASS Program”, this section will explain the BRASS Program in general terms. The BRASS Program is described as an automated and electronic system designed, through the use of computers and bar-code technology, to expedite the processing and release of certain high-volume, repetitively-shipped merchandise that is imported at designated locations. BRASS transactions can be designated for either release under entry summary or release for immediate delivery. Merchandise shipments arriving by motor carrier as well as by rail may be processed through BRASS.

The paragraph provides that participation in the BRASS Program is voluntary and that participants must comply with the program’s requirements, which include the pre-filing of certain import information for qualifying shipments of merchandise and special identification of those shipments with an assigned bar code. While Customs may inspect any shipment of merchandise approved for BRASS processing, in general, BRASS shipments enjoy expedited processing and release through all designated and approved BRASS ports of entry without further Customs processing.

Further, this paragraph will provide that at certain high-risk locations along the land borders of the United States (the locations are published in the Federal Register), the use of BRASS processing and release for particular shipments of merchandise may be denied by Customs unless the imported merchandise is transported by carriers that participate in the Land Border Carrier Initiative Program (*see* subpart H of part 123 of this chapter).

This paragraph also will caution that participants should be aware that failure to follow program requirements for BRASS-approved processing can result in revocation of their participation in the program. Further, failure to follow program requirements may result in participants being liable for civil and criminal penalties.



Further information concerning the BRASS Program will be contained in the forthcoming BRASS Handbook, that will be available from U.S. Customs Service Headquarters, BRASS Processing Centers, and at designated ports of entry approved to process BRASS shipments of merchandise.

§ 142.42—“Application for BRASS processing”

Under the heading “Application for BRASS processing”, this section will explain the application and decision process in 5 paragraphs. The section will discuss: (1) who is eligible to apply to the BRASS Program, (2) what merchandise qualifies for BRASS processing, (3) how applicants apply to the BRASS Program, (4) how applications are processed through the new centralized BRASS Processing Centers, including how applicants are notified of their approval or denial to participate in the BRASS Program, and the administrative appeal procedures available to applicants denied participation, and (5) what the grounds are for denying an application.

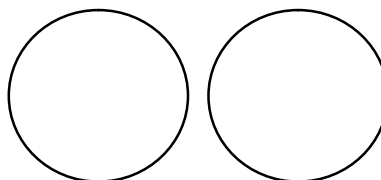
Under the heading “Eligible applicants”, paragraph (a) will provide that only importers that file their own entries and brokers may be applicants for the BRASS Program. The paragraph provides that applicants must be of good character.

Under the heading “Merchandise criteria”, paragraph (b) will explain what types of merchandise qualify for BRASS processing and explain the volume requirements and examination compliance rates applicable to qualifying import transactions. Qualifying merchandise cannot be prohibited or restricted, subject to absolute quota, denied approval for importation by another Federal government agency required to approve the merchandise, or subsequently determined to be unsuitable for expedited processing under BRASS for reasons pertaining to trade policy.

Further regarding BRASS qualifying merchandise, the examination compliance rate for the qualifying import transactions must be relatively high, as established by the centralized processing center where the application will be submitted.

Because the BRASS Program exists to process and release high-volume, repetitively-shipped merchandise, an applicant will be required to establish, for each port of entry at which he requests BRASS processing, that the annual number of import transactions between the parties designated is sufficient to qualify for BRASS processing. This is a quantitative measure of the number of import transactions in which the applicant engaged in the previous year and is established by the centralized processing center where the application will be submitted. The one-year-parameter on an applicant’s import transactions at the designated port of entry is necessary to give Customs sufficient enough background to determine, in part, whether the applicant should be granted BRASS processing privileges at that requested location.

For BRASS processing privileges along the northern border, the number of import transactions claimed for eligibility must have been with the same manufacturer or shipper, and the same importer. For BRASS



processing privileges along the southern border, the number of import transactions claimed for eligibility must have been with the same manufacturer or shipper, importer, and commodity. (The reason no precise number of qualifying shipments is provided for in the regulations is because each port of entry designated for BRASS use has different processing facilities and varying staff and merchandise processing levels. Specific numbers for qualifying shipments along each border will be provided for in the BRASS Handbook, which will account for shifting risk factors associated with the BRASS Program.)

Under the heading "Application procedure", paragraph (c) will explain that a broker or importer who files his own entries applies for participation in the BRASS Program by submitting an application for each commodity to be processed, accompanied by a representative sample of an actual commercial invoice for the product(s) sought to be processed under BRASS, to the appropriate BRASS Processing Center. An application is filed on new Customs Form (CF) 7600 (Application for BRASS). On the application, the applicant must provide identification information on any other party, such as the shipper or manufacturer of the qualifying merchandise, that may be involved with the proposed BRASS transactions. Each of the parties identified will be evaluated to determine whether they are of good character.

Copies of the CF 7600 are available at any Customs BRASS port of entry. The information required to be submitted on the CF 7600 will be explained in the BRASS Handbook.

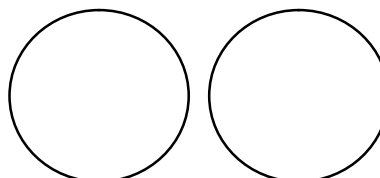
Applications for BRASS processing privileges along the southern border should be submitted to the centralized Southern Border BRASS Processing Center. The address for this processing center will be:

U.S. Customs Service, 9777 Via De La Amistad, San Diego, California 92154, ATTN: BRASS Processing Center.

Applications for BRASS processing privileges along the northern border should be submitted to the centralized Northern Border BRASS Processing Center. The address for this processing center will be:

U.S. Customs Service, 50 S. Main St., Saint Albans, Vermont, 05478-2198, ATTN: BRASS Processing Center.

Under the heading "Notice of action on application", paragraph (d) will explain the new centralized processing of applications through BRASS Processing Centers, how applicants are notified concerning their approval or denial to participate in the BRASS Program, and the administrative appeal procedures available to applicants denied participation. Applications will be evaluated by the appropriate BRASS Processing Center. Based on the information provided on the BRASS application, Customs makes a determination as to whether the applicant, any party listed on the BRASS application, and the merchandise meet the standards set forth in the BRASS regulations. The BRASS Processing Center then notifies the applicant in writing as to whether the application is approved or denied. (Where an application is incomplete or otherwise contains information that cannot be verified by the



appropriate BRASS Processing Center, it will be returned for clarification.)

When an application is approved, Customs assigns the appropriate number of C-4 identifiers, which must be used by the entry filer for those shipments that will be processed through BRASS. A C-4 identifier (Common Commodity Classification Code) is a unique, four-element bar code assigned by the appropriate BRASS Processing Center that identifies the shipper or manufacturer, importer, entry filer, and commodity. If multiple commodities are to be processed at a designated location, then the C-4 identifier assigned for each commodity must be used.

When an application is denied, Customs will issue a notice of nonselection to the applicant. The notice of nonselection will state the reason(s) for the decision and inform the applicant of the administrative appeal procedures that he may pursue under proposed § 142.46.

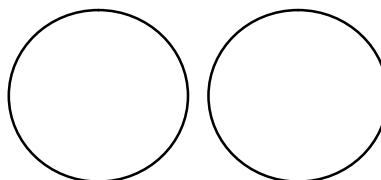
Under the heading "Grounds for denial", paragraph (e) will delineate the specific grounds for not approving an application. This paragraph will provide that the appropriate BRASS Processing Center may deny an applicant's application for any of the following reasons:

1. A reputation imputing to the applicant criminal, dishonest, or unethical conduct, or a record of that conduct;
2. Failure of the merchandise to meet the standards set forth in the regulation;
3. Evidence that the application contains false or misleading information concerning a material fact; or
4. A determination is made that participation in the BRASS Program would endanger the revenue or security of the Customs area.

§ 142.43—*"Responsibilities of participant accepted for BRASS processing"*

Under the heading "Responsibilities of participant accepted for BRASS processing", this section will provide that, when approved to participate in the BRASS Program, the applicant is denominated an "entry filer" for BRASS purposes. Entry filers agree to certain responsibilities. These responsibilities include the following:

1. To provide the port director, in writing, with a range of numbers for BRASS processing use, so that Customs can assign a BRASS entry number automatically to each BRASS transaction. A separate range must be provided for each BRASS site and mode of transportation. Entry filers must not assign these numbers to other import transactions. As the previously supplied range nears exhaustion, the entry filer must provide the local port director with new ranges of BRASS entry numbers;
2. To properly prepare, distribute, and use C-4 identifier(s) for BRASS shipments. If multiple commodities are to be processed at a designated location, then the C-4 identifier assigned for each commodity must be used. When multiple commodity processing is desired, the entry filer should consult with the local port director as to the number of commodities allowed to be processed per shipment at the port;



3. To immediately notify Customs in writing of any changes in the C-4 identification information that was provided on the originally-approved BRASS application by submitting a corrected BRASS application with a copy of the originally-approved application. These changes concern the identification of the shipper or manufacturer, importer, entry filer, or the commodity. The notice must include the C-4 identifier to be changed and the date the change is to be effective; and

4. To immediately notify Customs in writing of any changes regarding their method of release for BRASS shipments (from entry or immediate delivery to the other). If the release procedure is to be changed permanently, the request must include the date the change is to be effective and must be submitted to the BRASS Processing Center that issued the C-4 identifier. If the release procedure is to be changed temporarily, the request must include the date the releases are to return to the release type originally approved. Further information concerning requests for a change in the method of release will be found in the BRASS Handbook.

§ 142.44—“BRASS processing procedures”

Under the heading “BRASS processing procedures”, this section will explain the expedited processing and release procedures of the BRASS Program and the procedure when a compliance examination is ordered. Because the processing procedures for merchandise carried by motor and rail carriers are different, they are explained in separate paragraphs: the motor carrier provisions are explained at paragraph (a); and the rail carrier provisions are explained at paragraph (b). It is noted that for rail carriers, only Automated Manifest System (AMS) rail carriers are eligible for BRASS processing. In general, when shipments are presented for expedited processing and release under BRASS:

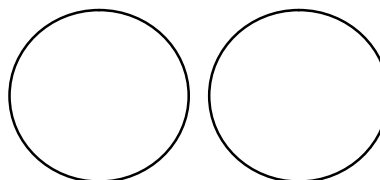
1. The merchandise must be specially identified with the proper C-4 code(s) by the entry filer and presented at a designated port (s) of entry approved to process BRASS shipments;

2. For motor carriers, the documentation to be submitted includes an original manifest (and as many copies as the particular BRASS site requires) and an original invoice, with the appropriate C-4 bar code(s) attached. For rail carriers, the documentation data must be submitted electronically;

3. Customs assigns a BRASS entry number to the transaction from the range of numbers previously provided by the entry filer for BRASS processing; and

4. Customs processes the merchandise as a BRASS transaction and the release information is either stamped on the original manifest and invoice documents or sent electronically, whichever procedure is applicable.

a) For motor carriers, the original paper documents are stamped and the drivers are provided with a copy of the manifest, so that they may depart the port; entry filers are provided with the invoice stamped with the BRASS entry number as-



signed and the appropriate C-4 identifier information; and Customs retains the original, stamped manifest document;

b) For rail carriers, the release data is electronically sent to the entry filer and to the carrier.

Occasionally, a compliance examination may be ordered by Customs. When BRASS shipments undergo a compliance examination:

1. The first three steps indicated above are followed, except that the appropriate documentation submitted to Customs is returned to the entry filer; and
2. The entry filer then either:
 - a) Enters the merchandise, by preparing either a Customs Form (CF) 3461 or CF 3461 Alternate that utilizes the BRASS entry number assigned by Customs, or
 - b) Applies for a special permit for immediate delivery of the merchandise, by preparing either a CF 3461 or CF 3461 Alternate with the required supporting documentation, that utilizes the BRASS entry number assigned by Customs.

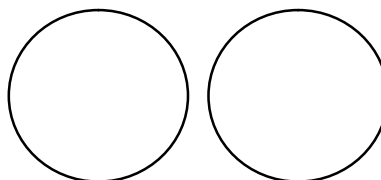
§ 142.45—“Revocation of BRASS participation”

Under the heading “Revocation of BRASS participation”, this section will explain how Customs can revoke an entry filer’s privilege to participate in the BRASS Program.

Under the heading “Immediate revocation”, paragraph (a) will delineate the specific reasons when the appropriate BRASS Processing Center or port director may immediately revoke a participant’s BRASS privileges. These reasons include:

1. The application contained false or misleading information concerning a material fact;
2. Any of the parties listed on the application is subsequently indicted for, convicted of, or has committed acts which would constitute any felony or misdemeanor under United States Federal or State law. In the absence of an indictment, conviction, or other legal process, Customs has probable cause to believe the proscribed acts occurred;
3. An entry filer allows an unauthorized person or entity to use his BRASS processing privileges;
4. An entry filer refuses or otherwise fails to follow any proper order of a Customs officer or any Customs order, rule, or regulation;
5. Reasonable grounds exist to believe that Federal rules and regulations pertaining to public health or safety, Customs, or other inspectional activities have not been followed;
6. Evidence of any subsequent dishonest conduct by any of the parties listed on the application; or
7. Continuation of the entry filer’s participation in the BRASS Program would endanger the revenue or security of the Customs area.

Under the heading “Proposed revocation”, paragraph (b) will provide when the appropriate BRASS Processing Center or port director may



propose to revoke a participant's BRASS privileges. These reasons will include:

1. The entry filer fails to adhere to the conditions or restrictions imposed by the BRASS Program; or
2. The entry filer does not maintain the minimal number of qualifying import transactions for a period of one year.

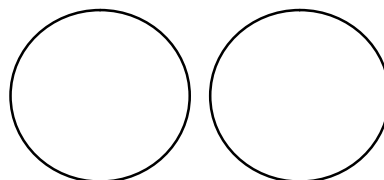
Under the heading "Notice of adverse action", paragraph (c) will explain Customs notification procedure when a decision is made to revoke an entry filer's participation in the BRASS Program. The appropriate BRASS Processing Center will notify the participant of the decision in writing. The notice will indicate whether the action is effective immediately or is proposed and will include the appropriate directions and information the nature of the decision requires.

Where the revocation of participation is to be effective immediately, the notice issued will be a notice of immediate revocation. The notice of immediate revocation will direct the entry filer to cease using his C-4 identifier on import transactions, state the reason(s) for the revocation decision, and inform the entry filer of the administrative appeal procedures that he may pursue under proposed § 142.46.

Where the revocation of participation is proposed, the notice issued will be a notice of proposed revocation. The notice of proposed revocation will inform the entry filer that he may continue to use his C-4 identifier on import transactions until such time as a notice of revocation is issued by the BRASS Processing Center, state the reason(s) for the proposed revocation, and inform the entry filer that he may file a response with the BRASS Processing Center that addresses the grounds for the action proposed within 30 calendar days of the date of issuance of the notice of proposed revocation. The entry filer may respond by accepting responsibility, explaining extenuating circumstances, and/or providing rebuttal evidence.

If the entry filer does not respond to the preliminary notice, the BRASS Processing Center will issue a notice of revocation 60 calendar days after the date the notice of proposed revocation was issued. The notice of revocation will direct the entry filer to cease using his C-4 identifier on import transactions, state the reason(s) for the revocation decision, and inform the entry filer of the administrative appeal procedures that he may pursue under proposed § 142.46.

If the entry filer files a timely response, the BRASS Processing Center will issue a final determination regarding the entry filer's participation in the BRASS Program within 30 calendar days of the date the entry filer's response is received by the BRASS Processing Center. If this final determination is adverse, then the notice of revocation will direct the entry filer to cease using his C-4 identifier on import transactions, state the reason(s) for the revocation decision, and inform the entry filer of the administrative appeal procedures that he may pursue under proposed § 142.46.



§ 142.46 Appeals regarding decisions concerning BRASS participation.

Under the heading “Appeals regarding decisions concerning BRASS participation”, § 142.46 will explain the new administrative appeal procedures that will be provided to BRASS Program participants who receive a notice of revocation and to BRASS Program applicants who receive a notice of nonselection for participation in the BRASS Program. Two levels of administrative review are established. Appeals must be filed within 30 calendar days of the date of issuance of the notice of adverse action (nonselection or revocation). Appeals must be filed in duplicate and must set forth the appellant’s responses to the grounds specified in the respective notice issued.

Paragraph (a) will explain the procedure an appellant must follow to file the first level of appeal with the Director of Field Operations at the Management Center which oversees the BRASS Processing Center that issued the notice of adverse action. Within 60 days of receipt of the appeal, the Director of Field Operations, or his designee, will make a determination regarding the appeal and notify the appellant of the decision in writing. If the determination is adverse to the appellant, the notice of appeal decision will state the reason(s) for the appeal decision and inform the appellant that within 30 calendar days of the date of issuance of the appeal decision he may administratively appeal the decision to the final level of appeal.

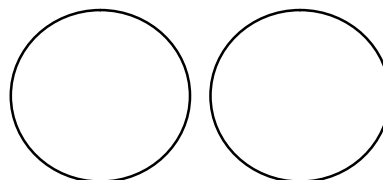
Paragraph (b) will explain the procedure an appellant must follow to file the final level of appeal with the Assistant Commissioner, Office of Field Operations, at Customs Headquarters. Within 60 days of receipt of the appeal, the Assistant Commissioner, or his designee, will make a determination regarding the appeal and notify the appellant of the decision in writing. If the determination is adverse to the appellant, the notice of appeal decision will state the reason(s) for the appeal decision.

COMMENTS

Before adopting these proposed regulations as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W, Suite 3000, Washington, D.C.

THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

Pursuant to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities, because the proposed amendments concern a voluntary program



that confers a benefit on those filers of imported merchandise that meet the eligibility requirements for BRASS processing privileges. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Further, these amendments do not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

PAPERWORK REDUCTION ACT

The collection of information in the current regulations has already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB control number 1515-0181 (Line Release application). This notice of proposed rulemaking does not involve any material change to the existing approved information collection.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

Part 178 of the Customs Regulations (19 CFR Part 178), which lists the information collections contained in the regulations and control numbers assigned by OMB, would be amended accordingly if this proposal is adopted.

LIST OF SUBJECTS

19 CFR Part 24

Customs duties and inspection, Fees, Imports, Reporting and recordkeeping requirements.

19 CFR Part 123

Administrative practice and procedure, Aircraft, Canada, Common carriers, Customs duties and inspection, Entry of merchandise, Freight, Imports, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Vehicles, Vessels.

19 CFR Part 132

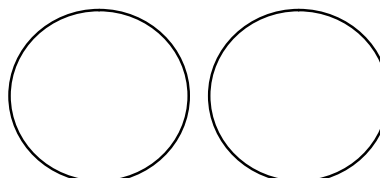
Agriculture and agricultural products, Customs duties and inspection, Quotas, Reporting and recordkeeping requirements.

19 CFR Part 142

Administrative practice and procedure, Common carriers, Customs duties and inspection, Computer technology, Entry of merchandise, Imports, Reporting and recordkeeping requirements.

PROPOSED AMENDMENTS TO THE REGULATIONS

For the reasons set forth above, it is proposed to amend parts 24, 123, 132, and subpart D of part 142 of the Customs Regulations (19 CFR parts 24, 123, 132, and subpart D of part 142), as set forth below:



PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general authority citation for part 24 and the specific authority for § 24.23 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States), 1505, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701.

* * * * *
Section 24.23 also issued under 19 U.S.C. 3332;
* * * * *

2. Section 24.23 is amended at paragraph (a)(4)(iii) by removing the words “any Line Release filed at a part” and adding, in their place, the words “import transaction under Border Release Advanced Screening and Selectivity (BRASS) at a port”.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for part 123 and the specific authority for § 123.71 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1436, 1448, 1624.

* * * * *
Sections 123.71–123.76 also issued under 19 U.S.C. 1618;
* * * * *

2. In § 123.71:

a. The seventh sentence is amended by removing the words “Line Release” and “Line Release entry” and adding, in their place, respectively, the words “Border Release Advanced Screening and Selectivity (BRASS) processing and release” and “BRASS processing and release”; and

b. The eighth sentence is amended by removing the words “Line Release” and adding, in their place, the words “BRASS processing and release”.

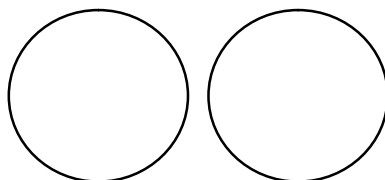
PART 132—QUOTAS

1. The general authority citation for part 132 and the specific authority citation for § 132.15 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

Sections 132.15 through 132.17 also issued under 19 U.S.C. 1202 (additional U.S. Note 3 to Chapter 2, HTSUS; subchapter III of Chapter 99, HTSUS; and additional U.S. Note 8 to Chapter 17, HTSUS, respectively), 1484, 1508.

2. In § 132.15, paragraph (b)(2) is amended by removing the parenthetical words “(see § 142.42(d) of this chapter)” before the semi-colon.



PART 142—ENTRY PROCESS

1. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. Subpart D to part 142 is revised to read as follows:

SUBPART D—BORDER RELEASE ADVANCED SCREENING AND
SELECTIVITY (BRASS) MERCHANDISE PROCESSING

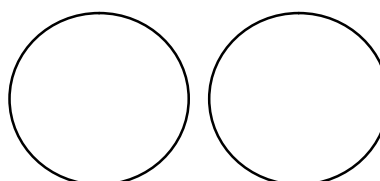
Sec.

- § 142.41 Description of BRASS program.
- § 142.42 Application for BRASS processing.
- § 142.43 Responsibilities of participant accepted for BRASS processing.
- § 142.44 BRASS processing procedures.
- § 142.45 Revocation of BRASS participation.
- § 142.46 Appeals regarding decisions concerning BRASS participation.

SUBPART D—BORDER RELEASE ADVANCED SCREENING AND
SELECTIVITY (BRASS) MERCHANDISE PROCESSING.

§ 142.41 Description of BRASS program.

The Border Release Advanced Screening and Selectivity (BRASS) Program is an automated and electronic system designed, through the use of personal computers and bar-code technology, to expedite the processing and release of certain high-volume, repetitively-shipped merchandise that is imported at designated locations. BRASS transactions may be designated for either release under entry summary or release for immediate delivery. The BRASS Program encompasses merchandise shipments arriving by motor carrier as well as by rail. Participation in the BRASS Program is voluntary and participants must comply with the program's requirements, which include the pre-filing of certain import information for qualifying shipments of merchandise and special identification of those shipments with an assigned bar code. While Customs may inspect any shipment of merchandise approved for BRASS processing, in general, BRASS shipments enjoy expedited processing and release through all designated and approved BRASS ports of entry without further Customs processing. At certain high-risk locations along the land borders of the United States (the locations are published in the Federal Register), the use of BRASS processing and release for particular shipments of merchandise may be denied by Customs unless the imported merchandise is transported by carriers that participate in the Land Border Carrier Initiative Program (*see*, subpart H of part 123 of this chapter). Applicants should be aware that failure to follow BRASS Program requirements can result in revocation of their participation in the program. Further, failure to follow program requirements may result in participants being liable for certain civil and criminal penalties. Further information concerning the BRASS Program is contained in the BRASS Handbook, available from U.S. Customs Service Headquarters, BRASS Processing Centers, and at designated ports of entry approved to process BRASS shipments of merchandise.



§ 142.42 Application for BRASS processing.

(a) *Eligible applicants.* Only importers that file their own entries and brokers may apply to participate in the BRASS Program. Applicants must be of good character.

(b) *Merchandise criteria.*—(1) *Non-qualifying merchandise.* Merchandise qualifying for BRASS processing privileges cannot be:

- (i) Prohibited or restricted;
- (ii) Subject to absolute quota;
- (iii) Denied approval for importation by another Federal government agency required to approve the merchandise; or
- (iv) Subsequently determined to be unsuitable for expedited processing under BRASS for reasons pertaining to trade policy.

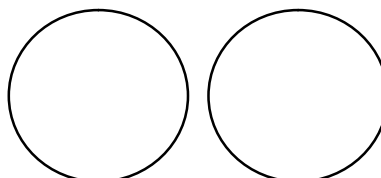
(2) *Volume requirements.* The level of import transactions, measured in quantitative terms regarding the number of high-volume, repetitively-shipped merchandise entries for the previous year at the port(s) of entry where the shipments will be entered for BRASS processing, will be considered by Customs in determining, in part, whether BRASS processing privileges should be granted to the applicant at the requested location. The level of import transactions necessary to qualify for BRASS processing is established by the centralized processing center where the application will be submitted and is determined differently based on whether the requested port(s) of entry is along the northern or southern border.

(i) *Northern border.* On the northern border, the number of import transactions with the same shipper or manufacturer and the same importer at the port(s) of entry where the shipments will be presented for BRASS processing is considered.

(ii) *Southern border.* On the southern border, the number of import transactions with the same shipper or manufacturer, importer, and commodity at the port(s) of entry where the shipments will be presented for BRASS processing is considered.

(3) *Compliance rate.* The examination compliance rate for the qualifying importations must meet Customs requirements, as established by the centralized processing center where the application will be submitted.

(c) *Application procedure.* To participate in the BRASS Program, a broker or an importer who files his own entries must submit an application for each commodity to be processed, accompanied by a representative sample of an actual commercial invoice for the product(s) sought to be processed under BRASS, to the appropriate BRASS Processing Center. Participants already in the former Line Release Program do not need to reapply for participation in the BRASS Program, provided they conduct their business in a manner consistent with the administrative portions of this subpart. An application is filed on Customs Form (CF) 7600 (Application for BRASS). On the application, the applicant must provide, among other information, identification information on any other party, such as the shipper or manufacturer of the qualifying mer-



chandise, that may be involved with the proposed BRASS transactions. Each of the parties identified will be evaluated to determine whether they are of good character. (Copies of the CF 7600 are available at any Customs BRASS port of entry. Additional information to be submitted on the CF 7600 is explained in the BRASS Handbook.)

(d) *Notice of action on application.* Following an evaluation of the information submitted on the CF 7600 and Customs determination as to whether the applicant, any other party listed on the application, and the merchandise meet the standards set forth in this section, the appropriate BRASS Processing Center will notify the applicant in writing as to whether the application is approved or denied. (Where an application is incomplete or otherwise contains information that cannot be verified by the appropriate BRASS Processing Center, it will be returned for clarification.) When an application is approved, Customs assigns the appropriate number of C-4 identifiers, which are to be used for those shipments that will be processed through BRASS. (A C-4 identifier (Common Commodity Classification Code), is a unique, four-element bar code assigned by the appropriate BRASS Processing Center that identifies the shipper or manufacturer, importer, filer, and commodity.) When an application is denied, Customs will issue a notice of nonselection to the applicant. The notice of nonselection will state the reason(s) for the nonselection and inform the applicant that he may administratively appeal the nonselection decision in accordance with the procedures set forth in § 142.46.

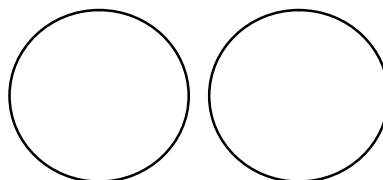
(e) *Grounds for denial.* The BRASS Processing Center may deny an application for any of the following reasons:

- (1) A reputation imputing to the applicant criminal, dishonest, or unethical conduct, or a record of that conduct;
- (2) Failure of the merchandise to meet the standards set forth in this section;
- (3) Evidence that the application contains false or misleading information concerning a material fact; or
- (4) A determination is made that participation in the BRASS Program would endanger the revenue or security of the Customs area.

§ 142.43 Responsibilities of participant accepted for BRASS processing.

When approved to participate in the BRASS Program, the applicant is denominated an “entry filer” for BRASS purposes. Entry filers agree to the following responsibilities:

(a) *BRASS entry number range.* Entry filers must provide the local port director, in writing, with a range of numbers for BRASS processing use, so that Customs can assign a BRASS entry number automatically to each BRASS transaction. A separate range must be provided for each BRASS site and mode of transportation. Entry filers must not assign these numbers to other import transactions. As the previously supplied range nears exhaustion, the entry filer must provide the local port director with new ranges of BRASS entry numbers;



(b) *C-4 identifier.* Entry filers are responsible for the proper preparation, distribution, and use of C-4 identifier(s). If multiple commodities are to be processed at a designated location, then the C-4 identifier assigned for each commodity must be used. When multiple commodity processing is desired, the entry filer should consult with the local port director as to the number of commodities allowed to be processed per shipment at the port;

(c) *Notification of changes in information set forth on application.* Entry filers must notify Customs immediately of any changes in information provided on the originally-approved application by submitting a corrected BRASS application, with a copy of the originally-approved application. This includes any changes regarding the shipper or manufacturer or the commodity; and

(d) *Changing election of release procedure.* Entry filers who wish to change their election of release procedure for BRASS shipments (from entry or immediate delivery to the other) from that approved in their initial BRASS application must request such change in writing. If the release procedure is to be changed permanently, the request must include the date the change is to be effective and must be submitted to the BRASS Processing Center that issued the C-4 identifier. If the release procedure is to be changed temporarily, the request must include the date the releases are to return to the release procedure originally approved. (Further information concerning requests for a change in BRASS processing can be found in the BRASS Handbook.)

§ 142.44 BRASS processing procedures.

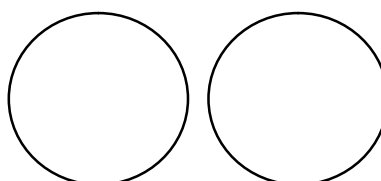
(a) *BRASS processing procedures for motor carriers.*—(1) *Expedited processing and release.* A shipment of merchandise arriving by motor carrier is expeditiously processed and released under the BRASS Program when:

(i) *Merchandise specially designated.* The merchandise presented is specially identified with the proper C-4 code(s) and the merchandise is presented at a designated port of entry approved to process BRASS shipments;

(ii) *Documentation required to be presented.* The documentation submitted includes an original manifest (and as many copies as the particular BRASS site requires) and an original invoice that contain the C-4 identifier (as described in § 142.42(d));

(iii) *Customs processing.* Customs assigns a BRASS processing number to the transaction from the range of numbers previously provided by the entry filer for BRASS processing; and

(iv) *Customs release.* Following the BRASS processing of the merchandise, the release information is stamped on the original manifest and the invoice documents. The motor carrier is then provided with a copy of the manifest, entry filers are provided with the invoice stamped with the BRASS entry number assigned and the appropriate C-4 identifier information, and Customs retains the original, stamped manifest and may retain any other documents submitted.



(2) *Compliance examination.* When a shipment of merchandise presented for BRASS processing is ordered by Customs to undergo a compliance examination, the entry filer must then either make an entry of the merchandise, by preparing either a Customs Form (CF) 3461 or CF 3461 Alternate, or apply for a special permit for immediate delivery of the merchandise, by preparing a CF 3461 or CF 3461 Alternate with the required supporting documentation, that utilizes the BRASS processing number assigned by Customs. Customs will not accept entry or immediate delivery documentation that does not contain the Customs-assigned BRASS entry number.

(b) *BRASS processing procedures for rail carriers.*—(1) *Expedited processing and release.* A shipment of merchandise arriving by rail carrier is expeditiously processed and released under the BRASS Program when:

(i) *Merchandise specially designated.* The merchandise presented is specially identified with the proper C-4 code(s) and the merchandise is presented at a designated port of entry approved to process BRASS shipments. The BRASS rail program is limited to rail AMS carriers;

(ii) *Data required to be presented.* The C-4 identifier (as described in § 142.42(d)) must be submitted electronically with the manifest; and

(iii) *Customs processing.* Customs assigns a BRASS entry number to the transaction from the range of numbers previously provided by the entry filer for BRASS processing; and

(iv) *Customs release.* Following the BRASS processing of the merchandise, the release information is electronically sent to the entry filer and to the carrier.

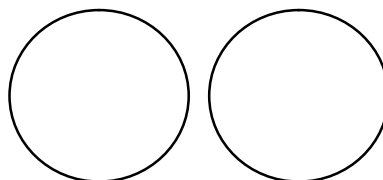
(2) *Compliance examination.* When a shipment of merchandise presented for BRASS processing is ordered by Customs to undergo a compliance examination, the entry filer must then either make an entry of the merchandise, by preparing either a Customs Form (CF) 3461 or 3461 Alternate, or apply for a special permit for immediate delivery of the merchandise, by preparing a CF 3461 or CF 3461 Alternate with the required supporting documentation, that utilizes the BRASS processing number assigned by Customs. Customs will not accept entry or immediate delivery documentation which does not contain the Customs-assigned BRASS entry number.

§ 142.45 Revocation of BRASS participation.

(a) *Immediate revocation.* The appropriate BRASS Processing Center or port director may immediately revoke a participant's BRASS privileges for any of the following reasons:

(1) The application contained false or misleading information concerning a material fact;

(2) Any of the parties listed on the application is subsequently indicted for, convicted of, or has committed acts which would constitute any felony or misdemeanor under United States Federal or State law. In the absence of an indictment, conviction, or other legal process, Customs must have probable cause to believe the proscribed acts occurred;



(3) An entry filer allows an unauthorized person or entity to use his BRASS processing privileges;

(4) An entry filer refuses or otherwise fails to follow any proper order of a Customs officer or any Customs order, rule, or regulation;

(5) Reasonable grounds exist to believe that Federal rules and regulations pertaining to public health or safety, Customs, or other inspectional activities have not been followed;

(6) Evidence of any subsequent dishonest conduct by any of the parties listed on the application; or

(7) Continuation in the BRASS Program would endanger the revenue or security of the Customs area.

(b) *Proposed revocation.* The appropriate BRASS Processing Center or port director may propose to revoke a participant's BRASS privileges for any of the following reasons:

(1) The entry filer fails to adhere to the conditions or restrictions imposed by the BRASS Program; or

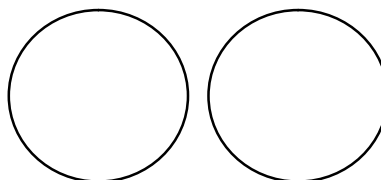
(2) The entry filer does not maintain the minimal number of qualifying import transactions for a period of one year.

(c) *Notice of adverse action.* When a decision to revoke an entry filer's participation in the BRASS Program is made, the appropriate BRASS Processing Center will notify the participant in writing. The notice will indicate whether the action is effective immediately or is proposed and will include the appropriate directions and information the nature of the decision requires:

(1) *Immediate revocation.* Where the revocation of participation is effective immediately, the notice issued will be a notice of immediate revocation. The notice of immediate revocation will direct the entry filer to cease using his C-4 identifier on import transactions, state the reason(s) for the revocation decision, and inform the entry filer that he may administratively appeal the revocation decision in accordance with the procedures set forth in § 142.46.

(2) *Proposed revocation.*—(i) *Preliminary notice.* Where the revocation of participation is proposed, the notice issued will be a notice of proposed revocation. The notice of proposed revocation will inform the entry filer that he may continue to use his C-4 identifier on import transactions until a notice of revocation is issued, state the reason(s) for the proposed revocation, and inform the participant that he may file a response with the BRASS Processing Center that addresses the grounds for the action proposed within 30 calendar days of the date of issuance of the notice of proposed revocation. The entry filer may respond by accepting responsibility, explaining extenuating circumstances, and/or providing rebuttal evidence.

(ii) *Final notice.*—(A) *Based on nonresponse.* If the entry filer does not respond to the notice of proposed revocation, the BRASS Processing Center will issue a notice of revocation 60 calendar days after the date of issuance of the notice of proposed revocation. The notice of revocation will direct the entry filer to cease using his C-4 identifier on import



transactions, state the reason(s) for the revocation decision, and inform the entry filer that he may administratively appeal the revocation decision in accordance with the procedures set forth in § 142.46.

(B) *Based on response.* If the entry filer files a timely response, the BRASS Processing Center will issue a final determination regarding the entry filer's participation in the BRASS Program within 30 calendar days of the date the entry filer's response is received by the BRASS Processing Center. If this final determination is adverse, then the notice of revocation will direct the entry filer to cease using his C-4 identifier on import transactions, state the reason(s) for the revocation decision, and inform the entry filer that he may administratively appeal the revocation decision in accordance with the procedures set forth in § 142.46.

§ 142.46 Appeals regarding decisions concerning BRASS participation.

A BRASS Program participant who receives a notice of revocation or a BRASS Program applicant who receives a notice of nonselection for participation in the BRASS Program may administratively appeal Customs decision by filing an appeal in writing within 30 calendar days of the date of issuance of the notice of adverse action (nonselection or revocation). Appeals must be filed in duplicate and must set forth the appellant's responses to the grounds specified in the respective notice issued.

(a) *The Director of Field Operations.* The first appeal is to the Director of Field Operations at the Customs Management Center that oversees the BRASS Processing Center that issued the notice of adverse action (nonselection or revocation). Within 60 days of receipt of the appeal, the Director of Field Operations, or his designee, will make a determination regarding the appeal and notify the appellant of the decision in writing. If the determination is adverse to the appellant, the notice of appeal decision will state the reason(s) for the adverse determination and inform the appellant that within 30 calendar days of the date of issuance of the appeal decision he may administratively appeal the decision to the final level of appeal: the Assistant Commissioner, Office of Field Operations.

(b) *The Assistant Commissioner.* The final appeal is to the Assistant Commissioner, Office of Field Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, Washington, D.C. 20229. Within 60 days of receipt of the appeal, the Assistant Commissioner, or his designee, will make a determination regarding the appeal and notify the appellant of the decision in writing. If the determination is adverse to the appellant, the notice of appeal decision will state the reason(s) for the adverse determination.

CHARLES W. WINWOOD,
Acting Commissioner of Customs.

Approved: January 29, 2002.

TIMOTHY E. SKUD,

Acting Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, February 1, 2002 (67 FR 4930)]

