

# Bureau of Customs and Border Protection

## *CBP Decisions*

(CBP Aug. 05–30)

### BONDS

#### APPROVAL TO USE AUTHORIZED FACSIMILE SIGNATURES AND SEALS

The use of facsimile signatures and seals on Customs bonds by the following corporate surety has been approved effective this date:

Washington International Insurance Company

Authorized facsimile signature on file for:

Janet M. Ciesko, Attorney-in-fact

The corporate surety has provided U.S. Customs and Border Protection with a copy of the signature to be used, a copy of the corporate seal, and a certified copy of the corporate resolution agreeing to be bound by the facsimile signatures and seals. This approval is without prejudice to the surety's right to affix signatures and seals manually.

DATE: August 31, 2005

WILLIAM G. ROSOFF,  
*Chief,*  
*Entry Process and Duty Refunds Branch.*

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## *General Notices*

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

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

**ACTION:** General notice.

**SUMMARY:** This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning July 1, 2005, the interest rates for overpayments will be 5 percent for corporations and 6 percent for non-corporations, and the interest rate for underpayments will be 6 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

**EFFECTIVE DATE:** July 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Trong Quan, National Finance Center, Collections Section, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278; telephone (317) 614-4516.

**SUPPLEMENTARY INFORMATION:**

**Background**

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

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

In Revenue Ruling 2005-35, the IRS determined the rates of interest for the calendar quarter beginning July 1, 2005, and ending September 30, 2005. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (3%) plus three percentage points (3%) for a total of six percent (6%). For corporate overpayments, the rate is the Federal short-term rate (3%) plus two percentage points (2%) for a total of five percent (5%). For overpayments made by non-corporations, the rate is the Federal short-term rate (3%) plus three percentage points (3%) for a total of six percent (6%). These interest rates are subject to change for the calendar quarter beginning October 1, 2005, and ending December 31, 2005.

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

<u>Beginning Date</u>	<u>Ending Date</u>	<u>Under- payments (percent)</u>	<u>Over- payments (percent)</u>	<u>Corporate Overpay- ments (Eff. 1-1-99) (percent)</u>
070174	063075	6%	6%	
070175	013176	9 %	9 %	
020176	013178	7 %	7 %	
020178	013180	6 %	6 %	
020180	013182	12 %	12 %	
020182	123182	20 %	0 %	
010183	063083	16 %	16 %	
070183	123184	11 %	1 %	
010185	063085	13 %	13 %	
070185	123185	11 %	11 %	
010186	063086	10 %	10 %	
070186	123186	9 %	9 %	
010187	093087	9 %	8 %	
100187	123187	10 %	9 %	
010188	033188	11 %	10 %	
040188	093088	10 %	9 %	
100188	033189	11 %	10 %	
040189	093089	12 %	11 %	
100189	033191	11 %	10 %	
040191	123191	10 %	9 %	
010192	033192	9 %	8 %	
040192	093092	8 %	7 %	
100192	063094	7 %	6 %	
070194	093094	8 %	7 %	
100194	033195	9 %	8 %	
040195	063095	10 %	9 %	
070195	033196	9 %	8 %	
040196	063096	8 %	7 %	
070196	033198	9 %	8 %	
040198	123198	8%	7%	
010199	033199	7%	7%	6%
040199	033100	8%	8%	7%
040100	033101	9%	9%	8%
040101	063001	8%	8%	7%
070101	123101	7%	7%	6%
010102	123102	6%	6%	5%
010103	093003	5%	5%	4%
100103	033104	4%	4%	3%
040104	063004	5%	5%	4%
070104	093004	4%	4%	3%

<u>Beginning Date</u>	<u>Ending Date</u>	<u>Under-payments (percent)</u>	<u>Over-payments (percent)</u>	<u>Corporate Overpayments (Eff. 1-1-99) (percent)</u>
100104	033105	5%	5%	4%
040105	093005	6%	6%	5%

Dated: August 25, 2005

ROBERT C. BONNER,  
*Commissioner,*  
*Customs and Border Protection.*

[Published in the Federal Register, August 31, 2005 (70 FR 51836)]

**PROPOSED COLLECTION; COMMENT REQUEST  
DOCUMENTS REQUIRED ABOARD PRIVATE AIRCRAFT**

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Homeland Security, as part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Documents Required Aboard Private Aircraft. 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 October 31, 2005, to be assured of consideration.

**ADDRESS:** Direct all written comments to CBP, Information Services Branch Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2-C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to CBP, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:**

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursu-

ant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Documents Required Aboard Private Aircraft

**OMB Number:** 1651–0058

**Form Number:** N/A

**Abstract:** The documents required by CBP regulations for private aircraft arriving from foreign countries pertain only to baggage declarations, and if applicable, to Overflight authorizations. CBP also requires that the pilots present documents required by FAA to be on the plane.

**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:** Business or other for-profit institutions

**Estimated Number of Respondents:** 150,000

**Estimated Time Per Respondent:** 1 minutes

**Estimated Total Annual Burden Hours:** 2,490

**Estimated Total Annualized Cost on the Public:** N/A

Dated: August 25, 2005

TRACEY DENNING,  
*Agency Clearance Officer,*  
*Information Services Branch.*

[Published in the Federal Register, September 1, 2005 (70 FR 52116)]

**AGENCY INFORMATION COLLECTION ACTIVITIES:  
PETITION FOR REMISSION OR MITIGATION OF  
FORFEITURES AND PENALTIES**

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

**ACTION:** Proposed collection; comments requested.

**SUMMARY:** The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and

Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Petition for Remission or Mitigation of Forfeitures and Penalties. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (70 FR 28316) on May 17, 2005, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

**DATES:** Written comments should be received on or before October 3, 2005.

**ADDRESSES:** Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Homeland Security Desk Officer, Washington, D.C. 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

**SUPPLEMENTARY INFORMATION:**

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Title:** Petition for Remission or Mitigation of Forfeitures and Penalties

**OMB Number:** 1651-0100

**Form Number:** CBP Form 4609

**Abstract:** Persons whose property is seized or who incur monetary penalties due to violations of the Tariff Act are entitled to seek remission or mitigation by means of an informal appeal. This form gives the violator the opportunity to claim mitigation and provides a record of such

**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:** Business or other for-profit institutions

**Estimated Number of Respondents:** 28,000

**Estimated Time Per Respondent:** 14 minutes

**Estimated Total Annual Burden Hours:** 6,500

**Estimated Annualized Cost to the Public:** \$157,300

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: August 24, 2005

TRACEY DENNING,  
*Agency Clearance Officer,  
Information Services Branch.*

[Published in the Federal Register, September 1, 2005 (70 FR 52116)]

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### ENTRIES OF ANTIDUMPING AND/OR COUNTERVAILING DUTIES DESTROYED SEPTEMBER 11, 2001

**AGENCY:** Customs and Border Protection; Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** The Bureau of Customs and Border Protection (CBP) suspends the liquidation of entries of merchandise subject to anti-dumping and/or countervailing duties (AD/CVD) until liquidation instructions are received from the Department of Commerce. Due to the extended liquidation cycle of AD/CVD entries, CBP is only now beginning to receive liquidation instructions from the Department of Commerce for many AD/CVD entries from previous years. Unfortunately, AD/CVD entry documents which were maintained by CBP at 6 World Trade Center in New York, New York, were destroyed in the terrorist attack of September 11, 2001. This notice announces that CBP is providing importers with the option to provide a reconstructed entry summary package to CBP for liquidation of these en-

tries. Failure by the importer to provide a reconstructed entry summary package within the time frame described in this notice may result in liquidation by CBP of the entry, or entries, based upon the information available within the Automated Commercial System (ACS).

**DATES:** If a reconstructed entry summary package is not received by the Bureau of Customs and Border Protection within 30 days following publication by the Department of Commerce that suspension of the liquidation of the subject entry, or entries, has been lifted, and the Department of Commerce has issued final assessment instructions, CBP will begin liquidating the entries based on the information available in ACS.

**ADDRESSES:** The reconstructed entry package should be mailed to: Customs and Border Protection, ATTN: ADCVD 6WTC Reconstructed Entry(s), 1100 Raymond Boulevard, Newark, NJ 07102.

**FOR FURTHER INFORMATION CONTACT:** Christine Furgason, Office of Field Operations, (202) 344-2293. For inquiries about specific entry summary packages: Walter Springer, Supervisory Import Specialist, Newark, N.J., (973) 368-6785. Importers, or their representatives, may also directly contact the Import Specialist Teams to whom the entries were assigned. A party making a telephonic inquiry regarding a specific entry summary package should be prepared to provide its importer name and identification number.

**SUPPLEMENTARY INFORMATION:**

**Background**

U.S. Antidumping and Countervailing Duty (AD/CVD) laws are intended to counter unfair trade practices that result in injury to U.S. industry.

AD/CV investigations are typically initiated by a domestic industry or industry association, through the filing of a petition with the Department of Commerce (DOC), alleging unfair competition by foreign manufacturers or foreign countries. The DOC then investigates the allegations. If DOC makes a preliminary determination that dumping or subsidies exist, the International Trade Commission (ITC) must then make a determination as to whether an industry in the United States is materially injured or threatened with material injury, or whether the establishment of an industry (in the United States), is materially retarded by reason of the unfair competition. If final positive determinations are made, DOC orders CBP to assess AD/CV duties at rates determined by the DOC. The importer of record is responsible for paying these duties.

AD duties are appropriate where the DOC determines that a foreign firm “dumps” merchandise in the U.S. market, i.e. sells merchandise in the U.S. market at a price lower than its fair value. CV

duties are appropriate when a foreign government unfairly subsidizes its industries that export to the United States. The purpose of AD/CV duties is to counteract the unfair advantages that the foreign manufacturer achieves through the dumping and/or subsidy practices.

Normally, CBP, upon instructions from the DOC, suspends the liquidation of entries of merchandise subject to additional antidumping and/or countervailing duties until the DOC instructs CPB to remove the suspension and liquidate the entries. Pursuant to title 19, Code of Federal Regulations, section 159.58 (19 CFR 159.58), CBP notifies concerned importers, consignees or their agents that liquidation of their entries has been suspended. The length of time for which an AD/CVD entry will be suspended depends, in part, on whether DOC conducts an administrative review. Also, if a decision by DOC regarding AD/CVD entries is challenged in the Court of International Trade (CIT), which happens frequently, the length of time of the suspension of liquidation may be increased dramatically. Consequently, liquidation of these types of entries may occur several years after the merchandise is originally entered and at AD/CVD rates that differ from the rate at the time of initial entry. For this reason, CBP may need to review the physical entry documents to determine the correct AD/CVD rate at liquidation. Depending upon the amount of information provided by the importer to CBP via their ABI transmission, CBP may not be able to determine various factors that are needed to assess the final margin. These factors may include the nature and amount of the merchandise, the producer of the goods, and the identity of the exporter.

Upon the completion of the various investigations and reviews, it is possible that an entry may be subject at liquidation to AD/CV duties in addition to those already assessed, may be liquidated as entered or may be liquidated at a different AD/CVD rate than previously deposited. For example, if it is finally determined that the subject merchandise was not subject to AD/CV duties, then a full refund may be in order.

Many AD/CVD entries stored at 6 World Trade Center were among those documents destroyed in the terrorist attack on September 11, 2001. The destroyed documents include those related to AD/CVD entries filed at the New York Seaport (port code 1001) and Newark/Elizabeth, N.J. (port code 4601, and sub-ports 4602, etc.). Although less likely, the destroyed documents may also include documents related to AD/CVD entries filed at JFK Airport/Jamaica/Queens NY, (port code 4701 and sub-ports 4702, etc.). Due to the extended liquidation cycle of AD/CVD entries, CBP is only now beginning to receive liquidation instructions from the DOC for these entries. Therefore, CPB is providing importers with the option to provide a reconstructed entry summary package to CBP for liquidation, when the suspension of liquidation of that importer's entry, or entries, has

been lifted. Importers are provided public notice of the lifting of liquidation suspension. Any party awaiting the lifting of liquidation suspension by the DOC regarding its AD/CVD entry, or entries, should review the **Federal Register** on a regular basis. Any party unsure whether their entry or entries are affected by this notice, or with any other questions regarding a specific entry summary package, should call the appropriate telephone number provided in this notice or should contact the Import Specialist Team(s) to whom the entries were assigned.

**REQUIREMENTS; FAILURE TO TIMELY PROVIDE  
RECONSTRUCTED ENTRY SUMMARY PACKAGE**

It is in the importer's interest to provide the reconstructed entry summary package to CBP no later than 30 days following publication by the DOC that suspension of liquidation of the subject entry, or entries, has been lifted. Upon receipt of final assessment instructions from the Department of Commerce, CBP will begin the process of liquidating the entries based upon the information available (which may not be complete) within the Automated Commercial System (ACS).

**PROTESTS**

As usual, CBP will consider timely protests, submitted pursuant to 19 CFR, Part 174, of its liquidation of any entry or entries.

Dated: August 17, 2005

JAYSON P. AHERN,  
*Assistant Commissioner,  
Office of Field Operations.*

[Published in the Federal Register, August 26, 2005 (70 FR 50390)]

**Bureau of Customs and Border Protection Trade  
Symposium: "Globalizing Trade Security and Facilitation -  
Realizing the Promise of the WCO Framework"**

**AGENCY:** Bureau of Customs and Border Protection, Homeland Security.

**ACTION:** Notice of Trade Symposium.

**SUMMARY:** This document announces that the Bureau of Customs and Border Protection (CBP) will convene a major trade symposium that will feature joint discussions by CBP personnel, members of the trade community, and other government agencies on the agency's role on international trade security initiatives and programs. Members of the international trade and transportation communities and

other interested parties are encouraged to attend, and those attending are requested to register early.

**DATES:** Wednesday, November 2, 2005 (Trade Compliance Workshop – 2:00 to 5:00 pm and Opening Reception 6:00 – 8:00 pm); Thursday, November 3, 2005 (Panels and Multi-Session Workshops 8:30 – 5:00 pm and Open Forum Reception with Senior Managers 5:00 – 6:00 pm); Friday, November 4, 2005 (Half-day Session (Panel Discussions 8:00 – 12:00 pm)) will be held.

**ADDRESSES:** The Trade Symposium will be held at the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, N.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** The Office of Trade Relations at (202) 344-1440 or at [traderelations@dhs.gov](mailto:traderelations@dhs.gov). ACS Client Representatives; CBP Account Managers; Regulatory Audit Trade Liaisons; or to obtain the latest information on the program or to register on-line, visit the CBP Web site at <http://www.cbp.gov>. Requests for special needs should also be sent to the Office of Trade Relations at [traderelations@dhs.gov](mailto:traderelations@dhs.gov).

**SUPPLEMENTARY INFORMATION:**

The keynote speaker will be announced at a later date. The cost is \$235.00 per individual and includes all symposium activities. Interested parties are requested to register early, as space is limited. Registration will open to the public on or about September 23, 2005. All registrations must be made on-line at the CBP Web site (<http://www.cbp.gov>) and must be confirmed with payment by October 7, 2005 by **credit card only**. The JW Marriott Hotel, 1331 Pennsylvania Avenue, NW, Washington DC, has reserved a block of rooms for Wednesday through Friday, November 2 – 4, 2005 at a rate of US \$239.00 per night. Reservations may be made directly with the hotel at (202) —393-2000 or 1-800-228-9290 and reference the “CBP Trade Symposium”.

DATED: August 17, 2005

MICHAEL C. MULLEN,  
*Director,*  
*Office of Trade Relations.*

[Published in the Federal Register, September 2, 2005 (70 FR 52425)]

DEPARTMENT OF HOMELAND SECURITY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS.

*Washington, DC, August 31, 2005,*

The following documents of the Bureau of Customs and Border Protection ("CBP"), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

MICHAEL T. SCHMITZ,  
*Assistant Commissioner,  
Office of Regulations and Rulings.*

**PROPOSED REVOCATION OF RULING LETTERS AND RE-  
VOCAATION OF TREATMENT RELATING TO THE TARIFF  
CLASSIFICATION OF SILENT ELECTRIC MUSICAL IN-  
STRUMENTS**

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

**ACTION:** Notice of proposed revocation of tariff classification ruling letters and revocation of treatment relating to the classification of silent electric instruments.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke or modify ruling letters relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of silent electric musical instruments, including a silent electric violin, silent electric cello and a silent electric bass, silent electric drums and percussion systems, silent electric brass instruments and EZ electric guitars. Similarly, CBP 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 October 14, 2005.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs

and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Robert Dinerstein, Tariff Classification and Marking Branch, at (202) 572-8721.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke the ruling letters relating to the tariff classification of certain silent electric musical instruments including a silent electric violin, a silent electric cello, a silent electric bass, silent electric drums and percussion systems, silent electric brass instruments (French Horn, Trumpet, and Trombone), and EZ electric guitar. Although in this notice CBP is specifically referring to the revocation of New York Ruling Letters (NY) B89582 dated October 14, 1997, (Attachment A), NY G86610 dated February 26, 2001, (Attachment B) and NY G88068 dated March 14, 2001 (Attachment C); NY A88586 dated November 6, 1996, (Attachment D); NY B84187 dated May 7, 1997 (Attachment E); NY B85746 dated June 12, 1997 (Attachment F); NY D85594 dated January 14, 1999 (Attachment G); NY E89544 dated November 26, 1999 (Attachment H) and NY K82460 dated February 9, 2004, (Attachment I) this notice covers any rulings on this merchandise which may exist

but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the nine 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 CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625 (c)(2)), as amended by section 623 of Title VI, CBP intends to revoke any treatment previously accorded by CBP to substantially identical merchandise. Any person involved with substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY B89582, NY G86610, NY G88068, NY D85594, NY E89544, and NY K82460, CBP classified a silent electric violin, cello, bass, drum sets and percussion systems, and EZ guitar in subheading 8543.89.96, HTSUS, which provides for "[e]lectrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; . . . :[o]ther machines and apparatus: [o]ther: [o]ther: [o]ther: [o]ther." In NY A88586, NY B84187, and NY B85746, CBP classified the silent french horn, trumpet, trombone, drum sets, and percussion systems, in subheading 8543.89.90, HTSUS, which provided for electrical machines and apparatus, having individual functions, not specified or included elsewhere in chapter 85; parts thereof: Other . . . other.

The silent electric violin, cello, bass, French horn, trumpet, trombone, drum sets and percussion systems, and EZ guitar that were the subject of NY B89582, NY G86610, NY G88068, NY A88586, NY B84187, NY B85746, NY D85594, NY E89544 and NY K82460 are musical instruments that in order to produce effective audible musical sounds require electrical amplification provided by another device such as a speaker system or headphones. Once the silent electric musical instruments are plugged into these other devices, they can be played the same way a conventional musical instrument is played to produce musical sounds. Therefore, we have determined that the silent electric musical instruments subject to this notice fit within the terms of heading 9207, HTSUS, specifically in subheading 9207.90.00 as: "Musical instruments, the sound of which is produced, or must be amplified, electrically (for example, organs, guitars, accordions): Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY B89582, NY G86610, NY G88068, NY A88586, NY B84187, NY B85746, NY D85594, NY E89544, and NY K82460 and any other rul-

ing not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letter (HQ) 967583 (Attachment J). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions that are contrary to the determination set forth in this notice. Before taking this action, consideration will be given to any written comments timely received.

DATED: August 24, 2005

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

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY B89582  
October 14, 1997  
CLA-2-85:RR:NC:1:112 B89582  
CATEGORY: Classification  
TARIFF NO.: 8543.89.9695

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
6600 Orangethorpe Avenue P.O. Box 6600  
Buena Park, CA 90622-6600

RE: The tariff classification of a Silent Electric Violin from Japan

DEAR MR. HECK:

In your letter dated September 10, 1997 you requested a tariff classification ruling.

As indicated by the submitted descriptive literature, the Silent Electric Violin, designated as Model SV-100, is a non-acoustic violin with spruce body, maple neck, ebony fingerboard and pegs, and plastic side body, chin rest and tail piece. The violin utilizes a piezo pickup sensor and has a built-in reverb. The silent feature allows a musician to practice or play through the use of earphones. In the alternative, the violin can be connected to a PA system or external audio system to allow for broadcast sound.

The applicable subheading for the Model SV-100 Silent Electric Violin will be 8543.89.9695, Harmonized Tariff Schedule of the United States (HTS), which provides for other electrical machines and apparatus, . . . , not specified or included elsewhere in Chapter 85, HTS. The rate of duty will be 3.1 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 documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist David Curran at 212-466-5680.

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

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY G86610  
February 26, 2001  
CLA-2-85:RR:NC:1:112 G86610  
CATEGORY: Classification  
TARIFF NO.: 8543.89.9695

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
6600 Orangethorpe Avenue P.O. Box 6600  
Buena Park, CA 90622-6600

RE: The tariff classification of silent instruments from Japan

DEAR MR. HECK:

In your letter dated January 23, 2001 you requested a tariff classification ruling.

As indicated by the submitted information, the silent instruments in question are identified as the Yamaha SVC-100 Silent Electric Cello and the SVB-100 Silent Electric Bass. Each of these units employs a piezo pickup sensor with built-in reverb. The silent design allows the musician to practice or play without disturbing others.

The applicable subheading for the Yamaha SVC-100 Silent Electric Cello and the SVB-100 Silent Electric Bass will be 8543.89.9695, Harmonized Tariff Schedule of the United States (HTS), which provides for other electrical machines and apparatus, . . . , not specified or included elsewhere in Chapter 85, HTS. The rate of duty will be 2.6 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 documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist David Curran at 212-637-7049.

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

## [ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY G88068  
March 14, 2001  
CLA-2-85:RR:NC:1:112 G88068  
CATEGORY: Classification  
TARIFF NO.: 8543.89.9695; 4202.92.9026

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
*6600 Orangethorpe Avenue P.O. Box 6600*  
*Buena Park, CA 90622-6600*

RE: The tariff classification of silent instruments and cases from Japan

DEAR MR. HECK:

In your letter dated January 23, 2001 you requested a tariff classification ruling.

As indicated by the submitted information, the silent instruments in question are identified as the Yamaha SVC-100 Silent Electric Cello and the SVB-100 Silent Electric Bass. Each of these units employs a piezo pickup sensor with built-in reverb. The silent design allows the musician to practice or play without disturbing others.

Samples of style SC1S and BSC1, the nylon carrying cases for the cello and bass, respectively, have not been submitted. Based upon catalog illustrations, each item appears to be a specifically shaped carrying bag for a specific instrument. Style SC1S is designed to carry the SVC-100 Silent Electric Cello, and style BSC1 is designed to carry the SVB-100 Silent Electric Bass. Each case is made of 100 percent nylon textile materials.

The applicable subheading for the Yamaha SVC-100 Silent Electric Cello and the SVB-100 Silent Electric Bass will be 8543.89.9695, Harmonized Tariff Schedule of the United States (HTS), which provides for other electrical machines and apparatus, . . . , not specified or included elsewhere in Chapter 85, HTS. The rate of duty will be 2.6 percent ad valorem. The applicable subheading for the SC1S and BSC1 nylon cases will be 4202.92.9026, HTS, which provides for cases with outer surface of sheeting of plastic or of textile materials: Other: Other: Other. The rate of duty will be 18.3 percent ad valorem.

The SC1S and BSC1 nylon cases fall within textile category designation 670. Based upon international textile trade agreements, products of Japan are subject to the requirement of a visa.

The designated textile and apparel categories and their quota and visa status are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information, we suggest that you check, close to the time of shipment, the U.S. Customs Service Textile Status Report, an internal issuance of the U.S. Customs Service, which is available at the Customs Web site at [www.customs.gov](http://www.customs.gov). In addition, 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 and should also be verified at the time of shipment.

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 David Curran at 212-637-7049.

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

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY A88586  
November 6, 1996  
CLA-2-85:RR:NC:1: 112 A88586  
CATEGORY: Classification  
TARIFF NO.: 8543.89.9090

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
6600 Orangethorpe Avenue P.O. Box 6600  
Buena Park, CA 90622-6600

RE: The tariff classification of Yamaha Silent Brass Systems from Japan.

DEAR MR. HECK:

In your letter dated October 11, 1996, you requested a tariff classification ruling.

The items at issue are three Yamaha Silent Brass Systems that enable the musician to play his/her trumpet, trombone or french horn without disturbing others. The Silent Brass Systems consist of the Personal Studio Digital Processor (ST component), a Pickup Mute (PM component) which is a mute with an internal electric condenser microphone, a set of mini-stereo earphones, a special locking cable and a 120v AC/12v DC adapter. The System can also run on 6 AAA batteries. All three systems are identical except that the SB3 System is designed for a french horn, the SB5 System is designed for a trombone, and the SB7 System is designed for a trumpet.

The applicable subheading for the Yamaha Silent Brass Systems will be 8543.89.9090, Harmonized Tariff Schedule of the United States (HTS), which provides for electrical machines and apparatus, having individual functions, not specified or included elsewhere in chapter 85; parts thereof: Other..other. The rate of duty will be 3.4 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 documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist David Curran at 212-466-5680.

ROGER J. SILVESTRI,  
*Director*  
*National Commodity Specialist Division.*

[ATTACHMENT E]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY B84187  
May 7, 1997  
CLA-2-85:RR:NC:1: 112 B84187  
CATEGORY: Classification  
TARIFF NO.: 8543.89.9090

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
6600 Orangethorpe Avenue  
Buena Park, CA 90622-6600

RE: The tariff classification of an electronic silent drum system from Japan

DEAR MR. HECK:

In your letter dated April 7, 1997 you requested a tariff classification ruling.

As indicated by the submitted descriptive literature, this system, described as the DTX "Silent Session" Electronic Drum Basic System (Model DTK 10), is an interactive electronic percussion system which allows the user to play specially designed drums and cymbals through the use of headphones. The system is operated through a Trigger Module and consists of various integrated components.

The applicable subheading for the DTX "Silent Session" Electronic Drum Basic System (Model DTK 10) will be 8543.89.9090, Harmonized Tariff Schedule of the United States (HTS), which provides for other electrical machines and apparatus, . . . , not specified or included elsewhere in Chapter 85, HTS. The rate of duty will be 3.1 percent ad valorem.

You have also requested a classification ruling on each of the individual components which comprise this system. Section 177.2(b)(2)(ii), Customs Regulations, specifies that ruling requests are limited to five merchandise items. In addition to the complete system, your request covers eight separate items. Therefore, we are unable to respond to this portion of your letter at this time.

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 David Curran at 212-466-5680.

ROBERT SWIERUPSKI,  
*Chief, Metals and Machinery Branch,  
National Commodity Specialist Division.*

[ATTACHMENT F]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY B85746  
June 12, 1997  
CLA-2-85:RR:NC:1: 112 B85746  
CATEGORY: Classification  
TARIFF NO.: 8543.89.9090; 8543.90.7580

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
6600 Orangethorpe Avenue P.O. Box 6600  
Buena Park, CA 90622-6600

RE: The tariff classification of components for the DTX Electronic Drum Basic System from Japan

DEAR MR. HECK:

In your letter dated May 13, 1997 you requested a tariff classification ruling.

As indicated in the submitted descriptive literature, there are five specific components in question. The TP80S Drum Pads and the PCY80S Cymbal Pads consist of rubber pads which contain piezo-electric pick up that detects the subtle nuances of a drum beat and a cymbal sound. The KP80 Kick Pad operates on a similar principle and detects the sounds of an acoustic bass drum. The HH80 Hi-hat Controller is a foot-operated control pedal which regulates the sound output and can control the various pitches. The TPCL80 Tom Holder is a device for holding the "tom" which strikes the Kick Pad.

The applicable subheading for the TP80S Drum Pads, the PCY80S Cymbal Pads, the KP80 Kick Pad, and the HH80 Hi-hat Controller will be 8543.89.9090, Harmonized Tariff Schedule of the United States (HTS), which provides for other electrical machines and apparatus, . . . , not specified or included elsewhere in Chapter 85, HTS. The rate of duty will be 3.1 percent ad valorem. The applicable subheading for the TPCL80 Tom Holder will be 8543.90.7580, HTS, which provides for other parts of electrical machines and apparatus, . . . , not specified or included elsewhere in Chapter 85, HTS. The rate of duty will be 3.1 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 documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist David Curran at 212-466-5680.

ROBERT SWIERUPSKI,  
*Chief, Metals and Machinery Branch,  
National Commodity Specialist Division.*

[ATTACHMENT G]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY D85594  
January 14, 1999  
CLA-2-85:RR:NC:1:112 D85594  
CATEGORY: Classification  
TARIFF NO.: 8543.89.9695

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
6600 Orangethorpe Avenue P.O. Box 6600  
Buena Park, CA 90622-6600

RE: The tariff classification of a Yamaha DD-9(M) Digital Drum from Japan

DEAR MR. HECK:

In your letter dated December 8, 1998 you requested a tariff classification ruling.

As indicated by the submitted sample and descriptive literature, the Yamaha DD-9(M) Digital Drum is an electronic percussion drum with four touch sensitive drum pads and one built-in speaker. Various tempos, ranging from disco to waltz, can be selected, thereby producing background rhythm to the drumbeat created when the pads are struck by a drumstick. There are also four separate sound effect buttons which produce sounds representing a barking dog, a ringing alarm and breaking glass. The unit is packaged with two drumsticks and an AC/DC power adapter.

The applicable subheading for the Yamaha DD-9(M) Digital Drum will be 8543.89.9695, Harmonized Tariff Schedule of the United States (HTS), which provides for other electrical machines and apparatus, . . . , not specified or included elsewhere in Chapter 85, HTS. The rate of duty will be 2.6 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 documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist David Curran at 212-466-5680.

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

[ATTACHMENT H]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY E89544  
November 26, 1999  
CLA-2-85:RR:NC:1:112 E89544  
CATEGORY: Classification  
TARIFF NO.: 8543.89.9695

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
6600 Orangethorpe Avenue P.O. Box 6600  
Buena Park, CA 90622-6600

RE: The tariff classification of a Yamaha DD-50 Digital Percussion Drum from Japan.

DEAR MR. HECK:

In your letter dated November 5, 1999 you requested a tariff classification ruling.

As indicated by the descriptive literature, the Yamaha DD-50 Digital Drum is an electronic percussion drum with four large and three small touch sensitive drum pads and two built-in speakers with tempo control. Various tempos, ranging from disco to waltz, which are pre-programmed are produced when the pads are struck by the drumsticks. The unit is packaged with two drumsticks, foot switches and an AC/DC power adapter.

The applicable subheading for the Yamaha DD-50 Digital Drum will be 8543.89.9695, Harmonized Tariff Schedule of the United States (HTS), which provides for other electrical machines and apparatus, . . . , not specified or included elsewhere in Chapter 85, HTS. The rate of duty will be 2.6 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 documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist David Curran at 212-637-7049.

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

[ATTACHMENT I]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY K82460  
February 9, 2004  
CLA-2-85:RR:NC:1: 112 K82460  
CATEGORY: Classification  
TARIFF NO.: 8543.89.9695

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
9600 Orangethorpe Avenue P.O. Box 6600  
Buena Park, CA 90622-6600

RE: The Tariff Classification of Yamaha EZ Electric "Guitars" from Taiwan.

DEAR MR. HECK:

In your letter dated January 12, 2004, you requested a tariff classification ruling.

The EZ-EG and EZ-AG electric guitars, literature submitted, are "electronic" acoustic guitars without strings. Since they do not have strings, chord changes and strumming can be made automatically.

The applicable subheading for the Yamaha EZ Electric "Guitars" will be 8543.89.9695, Harmonized Tariff Schedule of the United States (HTS), which provides for other electrical machines and apparatus, . . . , not specified or included elsewhere in Chapter 85, HTS. The rate of duty will be 2.6 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 documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist David Curran at 646-733-3017.

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

[ATTACHMENT J]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 967583  
CLA-02 RR:CTF:TCM 967583 RSD  
CATEGORY: Classification  
TARIFF NO: 9207.90.00

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
6600 Orangethorpe Avenue P.O. Box 6600  
Buena Park, California 90622-6600

RE: Revocation of NY B89582, NY G86610, NY G88068, NY A88586, NY B84187, NY B85746, NY D85594, NY E89544, and NY K82460 regarding the Tariff Classification of Silent Electric Musical Instruments, including a Silent Electric Violin, Cello, Bass, Brass Systems, Electric Drums, Digital Drums, and EZ Electric Guitars

DEAR MR. HECK:

The National Commodity Specialist Division of Customs and Border Protection (CBP) has previously issued to Yamaha Corporation of America (Yamaha) a series of rulings that concern the classification of silent electric instruments under the Harmonized Tariff Schedule of the United States (HTSUS). The specific rulings in which CBP ruled on the classification of silent electric instruments are New York Ruling (NY) B89582 dated October 14, 1997, concerning a silent electric violin; NY G86610 dated February 26, 2001, concerning a silent electric cello and a silent electric bass; NY G88068 dated March 14, 2001, also concerning a silent electric cello and a silent electric bass and cases; NY A88586 dated November 6, 1996, concerning silent brass systems; NY B84187 dated May 7, 1997, concerning silent electric drums; NY B85746 dated June 12, 1997, concerning a electric drum set; NY D85594 dated January 14, 1999, concerning a digital drum; NY E89544 dated November 26, 1999, concerning digital drums; and NY K82460 dated February 9, 2004, concerning EZ electric guitars. In these rulings, CBP held that these silent electric instruments were classified in heading 8543, HTSUS as: other electrical machines and apparatus . . . , not specified or included elsewhere in Chapter 85, HTSUS. We have reconsidered these rulings, and we now believe that the classification of the silent electric instruments set forth in these rulings is incorrect. This ruling sets forth the correct classification of the silent electric instruments that were subject of the previously cited rulings.

**FACTS:**

In NY B89582, CBP considered the classification of a silent electric violin, designated as Model SV-100. The ruling describes the musical instrument as a non-acoustic violin with a spruce body, maple neck, and an ebony fingerboard and pegs. The instrument also has a plastic side body, a chin rest, and a tailpiece. The violin utilized a piezo pickup sensor and built-in reverb. The silent feature of the violin allows a musician to practice or play through the use of earphones. Instead of having an internal resonating chamber that a traditional acoustic violin has, the silent electric violin has a studio quality audio pickup below its bridge. An internal effect processor is added to the violin to produce a full bodied tone that could be amplified for live perfor-

mances or studio recording. An auxiliary input on the body on each of these instruments can easily be connected to an external CD player or tape machine for practicing with pre-recorded material. A second input jack allows musicians to duet with another silent instrument player.

NY G86610 and NY G88068 concerned the Yamaha SVC-100 Silent Electric Cello and SVB-100 Silent Electric Bass. According to these rulings, each of these units employs a piezo pickup sensor with a built-in reverb. Like the silent electric violin, the silent design of electric cello and bass allows the musician to practice or play without disturbing others. According to an article published on the *Popular Mechanics* web site dated April 1, 1999, the silent electric cello weighs 7 pounds 11 ounces. The instrument uses a high-quality pickup, which senses the vibration of the strings, which is connected to an internal effects processor. This replaces the traditional internal amplification cavity of an acoustic cello. Either two AA batteries or AC current powers the silent electric cello. The silent electric cello uses the same technology as the silent electric violin.

In NY G88068, CBP also considered the classification of nylon cases for the silent electric bass and cello. CBP separately classified the nylon cases in subheading 4202.92.90, HTSUS, as cases with outer surface of sheeting of plastic or of textile materials: Other: Other: Other.

In NY A88586 dated November 6, 1996, CBP considered the classification of the Yamaha Silent Brass systems that enabled the musician to play his/her trumpet, trombone or French horn without disturbing others. The silent brass systems consisted of the personal studio digital processor (ST component), pickup mute (PM component) which is a mute with an internal electric condenser microphone, a set of mini-stereo earphones, a special locking cable and a 120v AC/ 12v DC adapter. The systems can also run on 6 AAA batteries. There are three brass systems. They are identical except that the SB3 system was designed for a French horn, the SB5 system was designed for a trombone, and the SB7 system was designed for a trumpet.

CBP has previously issued four rulings concerning electric percussion instruments. NY B84187 concerned the DTX "Silent Session" Electronic Drum System (Model DTK 10), an interactive electronic percussion system which allows the user to play specially designed drums and cymbals through the use of headphones. The system is operated through a trigger module and consists of various integrated components.

NY B85746 also dealt with the classification of an electronic drum basic system. It has five specific components. The TP80S Drum Pads and the PCY 80S Cymbal Pads consist of rubber pads containing a piezo-electric pick up that detects the subtle nuances of a drumbeat and a cymbal sound. The KP80 kick pad operates on a similar principle and detects the sounds of an acoustic bass drum. The HH80 Hi-Hat Controller is a foot-operated control pedal that regulates the sound output and can control the various pitches. The TPCL80 Tom Holder is a device for holding the "tom" which strikes the kick pad.

In NY E89544, CBP considered a digital drum set, the Yamaha DD-50. It is an electronic percussion drum set with four large and three small touch sensitive drum pads and two built-in-speakers with tempo control. Various preprogrammed tempos, ranging from disco to waltz, are produced when the drumsticks strike the pads. The unit is packaged with two drumsticks, foot switches and an AC/DC power adapter. A second digital drum set was considered in NY D85594. In that case, CBP considered the Yamaha DD-9(M)

Digital Drum, an electronic percussion drum set with four-touch sensitive drum pads and one built-in speaker. Various tempos, ranging from disco to waltz can be selected thereby producing background rhythm to the drum-beat created when a drumstick strikes the pads. There are also four separate sound effect buttons which produce sounds representing a barking dog, a ringing alarm and breaking glass.

In NY K82460, CBP classified the EZ-EG and EZ-AG electric guitars. The submitted literature indicated that they were "electronic" acoustic guitars without strings. Since these guitars do not have strings, the chord changes and strumming can be made automatically.

In the rulings cited above, CBP classified the silent electronic musical instruments in heading 8543, HTSUS, as other electrical machines and apparatus not specified or included elsewhere in Chapter 85, HTSUS. CBP classified the silent electric instruments in heading 8543, HTSUS, as an electrical article because the instruments did not have the required external audio system to broadcast sound.

**ISSUE:**

Whether the silent electric music instruments are classified in heading 8543, HTSUS, as other electrical machines and apparatus not specified or included elsewhere in Chapter 85, HTSUS, or in heading 9207, HTSUS, as musical instruments, the sound of which is produced or must be amplified electrically.

**LAW AND ANALYSIS:**

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

The HTSUS provisions under consideration are as follows:

8543	Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof:
	Other machines and apparatus:
8543.89	Other:
	Other:
	Other:
8543.89.96	Other.
	* * *
9207	Musical instruments, the sound of which is produced, or must be amplified, electrically (for example, organs, guitars, accordions):
9207.90.00	Other.
*	* * * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (EN's) constitute the official interpretation of the Harmonized System. While not legally binding on the contracting parties, and therefore not dispositive, the EN's provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the Harmonized System. CBP believes the EN's should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN 85.43 states, in relevant part:

This heading covers all electrical appliances and apparatus, **not falling** in any other heading of this Chapter, **nor covered more specifically** by a heading of any other Chapter of the Nomenclature, nor excluded by the operation of a Legal Note to Section XVI or to this Chapter. The principal electrical goods covered more specifically by other Chapters are electrical machinery of **Chapter 84** and certain instruments and apparatus of **Chapter 90**.

\* \* \*

Most of the appliances of this heading consist of an assembly of electrical goods or parts (valves, transformers, capacitors, chokes, resistors, etc.) operating wholly electrically. However, the heading also includes electrical goods incorporating mechanical features **provided** that such features are subsidiary to the electrical function of the machine or appliance.

\* \* \*

The language of EN 85.43 indicates that heading 8543, HTSUS, covers only electrical appliances and apparatus that are not described more specifically by a heading of Chapter 85 or of another Chapter of the Nomenclature. Thus, we must determine if there is a heading which more specifically describes the silent electric musical instruments. We consider the alternative provision, heading 9207, HTSUS, a heading that covers musical instruments that require electrical amplification.

The general notes in the ENs for Chapter 92 explain that Chapter 92 covers:

- (A) Musical instruments (heading 92.01 to 92.08).
- (B) Parts and accessories of these instruments (heading 92.09).

Some musical instruments (pianos, guitars, etc.) may have an electrical sound pick-up and amplifying device; they nevertheless remain classified in their respective headings in this Chapter, **provided** that, without the electrical equipment, they can still be used like the similar conventional-type instruments. The electrical equipment itself, **unless** forming an integral part of the instrument or housed in the same cabinet as the instrument, is however in all cases **excluded (heading 85.18)**.

Electrical or electronic instruments (other than the automatic pianos of heading 92.01) which are not suitable for playing without the electrical or electronic equipment fall in heading 92.07 (see the corresponding Explanatory Note). The latter heading therefore covers, for example, electrostatic, electronic or similar guitars, organs, pianos, accordions, carillons.

\* \* \*

EN 92.07 states:

This heading covers musical instruments in which the sound is generated or amplified **electrically** (including **electronically**) (i.e., those which cannot be played for normal hearing without their electrical or electronic components, even though the vibrating devices with which they are fitted may produce faint sounds). In this respect, they differ from certain other instruments (e.g., pianos, accordions, guitars) which, while they may be equipped with an electrical sound pick-up and amplifying device, are nevertheless independent instruments suitable for playing without such devices, in the same way as similar conventional-type instruments. . . .

\* \* \*

Although they may generally be essential for the normal operation of the instruments of this heading, electrical or electronic apparatus (in particular the amplifier and loudspeaker) are **excluded** and fall in their respective headings (**Chapter 85**) whenever they are not built into the unit itself. When, however, they are incorporated in or housed in the same cabinet as the instrument they are classified with the instrument, even though they may be packed separately for convenience of transport.

The silent electric violin, cello, and bass that were the subject of NY B89582, NY G86610, and NY G88068, clearly appear to meet the terms of heading 9207, HTSUS. These articles are musical instruments that require some type of electrical amplification provided by another device in order to produce audible musical sounds. In addition, they fit the description set forth in EN 92.07 for articles that are classified in heading 9207, HTSUS. The silent electric violin, cello and bass are described in the product literature as musical instruments that need to be attached to an electrical apparatus, such as a speaker system or headphones for a listener to be able effectively to hear the musical sounds that they produce. The electronic trumpets, french horns, trombones, percussion systems and EZ guitars also need to be plugged into other electronic devices to function. While the silent electronic instruments require some other form of amplification by being attached to some type of speaker system, it is also understood that plugging the instruments into a speaker system, headphones or some other type of amplification device is a rather simple operation. Once the instruments are plugged into a speaker system or headphones, they can be played basically the same way a conventional musical instrument is played to produce musical sounds. The other electronic musical instruments that we have ruled upon such as the digital and electronic drum systems, silent electronic brass instruments and the EZ guitar operate in the same general manner as the silent electric string instruments meaning that they also must be plugged into some type of speaker system to be effectively heard. Thus, they also meet the description of heading 9207, HTSUS.

EN 92.07 indicates that the electrical apparatus needed to amplify sound from electrical musical instruments are classified in Chapter 85 of the HTSUS. In addition, EN 92.07 further specifies that the electrical apparatus necessary to amplify the sound produced by electrical musical instruments are classified separately from the instruments themselves even when they are imported together unless they are both contained in the same built-in unit. Because musical instruments and electrical apparatus, like speakers,

amplifiers and headphones, are considered as separate articles for classification purposes, it is evident that the drafters of the HTSUS intended that electronic musical instruments such as the silent electric violins, cellos, basses, brass instruments, drums, etc., be classified in heading 9207, HTSUS, even when they are imported without the electrical apparatus that is used to amplify their sound. Consequently, in accordance with EN 92.07, the silent electric musical instruments are classified in heading 9207, HTSUS, even if they are imported without the electrical apparatus that is needed to amplify their sound.

In NY G88068, CBP also classified the nylon carrying cases that were used to carry the silent electric cello and bass. The cases appeared to be specifically shaped carrying bags designed for a specific instrument. The ruling held that the applicable subheading for the nylon cases was 4202.92.90, HTSUS. Assuming the nylon cases are imported together with the silent electric cellos and basses, GRI 5(a) becomes applicable. GRI 5(a) provides, in pertinent part that “[c]amera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specifically shaped or fitted to contain a specific article or set of articles, suitable for long-term use and entered with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith.” Based on the description provided in NY G88068 that the nylon cases are specially fitted for the electric cellos and basses, we find that the cases are musical instrument cases that meet the requirements of GRI 5(a), and thus they are classified together with the silent electric cellos and basses in heading 9207, HTSUS.

**HOLDING:**

The Silent Electric Musical Instruments described above are classified in heading 9207, HTSUS. They are specifically provided for in subheading 9207.90.00, HTSUS, as “[m]usical instruments, the sound of which is produced, or must be amplified, electrically . . . : Other”, at a general, column one rate of duty of 5 percent ad valorem. Duty rates are provided for requester’s convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at <http://www.usitc.gov/tata/hts/>.

**EFFECT ON OTHER RULINGS:**

NY B89582 dated October 14, 1997; NY G86610, dated February 26, 2001; NY G88068 dated March 14, 2001; NY B84187 dated May 7, 1997; NY A88586 dated November 6, 1996; NY D85594 dated January 14, 1999; NY E89544 dated November 26, 1999; NY K82460 dated February 9, 2004; and NY B85746 dated June 12, 1997; are revoked.

MYLES B. HARMON,

*Director,*

*Commercial and Trade Facilitation Division.*

**MODIFICATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF DRAWER PULLS**

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

**ACTION:** Notice of modification of ruling letter and revocation of treatment relating to tariff classification of drawer pulls.

**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 CBP is modifying a ruling letter relating to the tariff classification of drawer pulls, and revoking any treatment CBP has previously accorded to substantially identical transactions. Notice of the proposed modification was published on July 6, 2005, in the Customs Bulletin. No comments were received in response to this notice.

**EFFECTIVE DATE:** This modification is effective for merchandise entered or withdrawn from warehouse for consumption on or after November 13, 2005.

**FOR FURTHER INFORMATION CONTACT:** James A. Seal, Tariff Classification and Marking Branch (202) 572-8779.

**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 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 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 CBP 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 CBP 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 CBP to properly assess duties, collect accurate statistics and determine whether any other legal requirement is met.

Pursuant to CBP's obligations, a notice was published on July 6, 2005, in the Customs Bulletin, Volume 39, Number 28, proposing to modify NY F81184, dated December 28, 1999, which classified plastic drawer pulls and metal drawer pulls as other parts of furniture, of rubber or plastics, or of metal, in subheadings 9403.90.5000 and 9403.90.8040, Harmonized Tariff Schedule of the United States (HTSUSA), respectively. No comments were received in response to this notice.

As stated in the proposed notice, this modification will cover any rulings on this merchandise which may exist but have not been specifically 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 have advised CBP during the comment period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment it previously accorded to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying NY F81184 to reflect the proper classification of plastic drawer pulls in subheading 3926.30.1000, HTSUSA, as handles or knobs which are fittings for furniture, of plastics, and metal drawer pulls in subheading 8302.42.3065, HTSUSA, as mountings, fittings and similar articles suitable for furniture, of iron or steel, of aluminum or of zinc and in subheading 8302.42.6000, HTSUSA, as mountings, fittings and similar articles suitable for furniture, of other base metals, in accordance with the analysis in HQ 967676, which is set forth as the Attachment to this document. The classification of wooden drawer pulls in NY F81184 is not affected by this modification. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment it previously accorded to substantially identical transactions.

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

DATED: August 25, 2005

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

Attachment

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 967676  
August 25, 2005  
CLA-2 RR:CTF:TCM 967676 JAS  
CATEGORY: Classification  
TARIFF NO.: 3926.30.1000, 8302.42.3065, 8302.42.6000

MR. STANLEY CHAN  
SHIN YEE INDUSTRIAL LIMITED  
*Room 901A, Kin Tak Fung Building*  
*174 Wai Yip Street*  
*Hong Kong*

RE: Drawer Pulls; NY F81184 Modified

DEAR MR. CHAN:

In NY F81184, dated December 28, 1999, certain plastic drawer pulls and metal drawer pulls were found to be classifiable as other parts of furniture, of rubber or plastics, or of metal, in subheadings 9403.90.5000 and 9403.90.8040, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), respectively.

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, 2186 (1993), notice of the proposed modification of NY F81184 was published on July 6, 2005, in the Customs Bulletin, Volume 39, Number 28. No comments were received in response to that notice. As indicated in the notice, the classification of wooden drawer pulls in NY F81184 is not affected by this modification.

**FACTS:**

The merchandise at issue is plastic drawer pulls and metal drawer pulls specifically designed for furniture. These articles function as handles or knobs for opening and closing furniture drawers. There is no further description of these articles. Submitted samples of substantially similar articles are of base metal.

The HTSUS provisions under consideration are as follows:

- 3926** Other articles of plastics . . .:
- 3926.30** Fittings for furniture, coachwork or the like:
- 3926.30.1000** Handles and knobs  
\* \* \* \* \*
- 8302** Base metal mountings, fittings and similar articles suitable for furniture . . .; and base metal parts thereof:  
Other mountings, fittings and similar articles, and parts thereof:
- 8302.42** Other, suitable for furniture:
- 8302.42.3065** Of iron or steel, of aluminum or of zinc

<b>8302.42.6000</b>	Other
	* * * * *
<b>9403</b>	Other furniture and parts thereof:
<b>9403.90</b>	Parts:
	Of rubber or plastics:
<b>9403.90.5000</b>	Other
<b>9403.90.8040</b>	Other

**ISSUE:**

Whether plastic drawer pulls and metal drawer pulls are “parts of general use” of heading 8302 and, thus, precluded from classification in heading 9403.

**LAW AND ANALYSIS:**

Under General Rule of Interpretation (GRI) 1, HTSUSA, 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.

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. CBP believes the ENs should always be consulted. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Chapter 94, Note 1(d), HTSUSA, states, in relevant part, that the chapter does not cover parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39). Section XV, Note 2(c) includes articles of heading 8302 within the expression “parts of general use” as used throughout the tariff schedule. Thus, articles of heading 8302 and similar goods of plastics cannot be classified in heading 9403.

EN 83.02 describes, among other articles, general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, etc. Among the articles listed at (E)(5) are mountings, fittings and similar articles suitable for furniture, specifically handles and knobs, including those for locks or latches.

Tariff terms not defined in the legal text of the HTSUSA, or otherwise described in the ENs, are normally construed in accordance with their common or commercial meanings, which are presumed to be the same. *See C.J. Tower & Sons v. United States*, 69 CCPA 128, 673 F.2d 1268 (1982), and related cases.

Various standard dictionaries indicate the terms “handle” and “knob” are often synonymous and designate parts designed especially to be grasped by the hand as for lifting or steering, or small, usually rounded projections by which something can be grasped or otherwise manipulated or moved. In our opinion, drawer pulls, which function to open or close drawers in furniture, are within the common and commercial meaning of the terms “handle” and “knob” for tariff purposes. Metal drawer pulls qualify as handles or knobs (base metal mountings and fittings) of heading 8302 and, therefore, are precluded by Chapter 94, Note 1(d) from classification in heading 9403. *See* NY

838264 and NY 838268, both dated March 17, 1989. Plastic drawer pulls are similarly precluded from classification in heading 9403. They are provided for in heading 3926 as handles or knobs for furniture, of plastics. *See* NY E83568, dated July 19, 1999.

**HOLDING:**

Under the authority of GRI 1, the metal drawer pulls are provided for in heading 8302. Those drawer pulls of iron or steel, or of aluminum or zinc are classifiable in subheading 8302.42.3065, HTSUSA. The rate of duty under this provision is 3.9 percent ad valorem. Metal drawer pulls of other base metals are classifiable in subheading 8302.42.6000, HTSUSA. The rate of duty under this provision is 3.4 percent ad valorem.

Under the authority of GRI 1, the plastic drawer pulls are provided for in heading 3926. They are classifiable in subheading 3926.30.1000, HTSUSA. The rate of duty under this provision is 6.5 percent ad valorem.

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

**EFFECT ON OTHER RULINGS:**

NY F81184, dated December 28, 1999, is modified. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

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

**MODIFICATION OF RULING LETTER AND REVOCATION  
OF TREATMENT RELATING TO TARIFF CLASSIFICA-  
TION OF VEHICLE LIGHT HOUSING**

**AGENCY:** Bureau of Customs and Border Protection; Department of Homeland Security.

**ACTION:** Modification of a tariff classification ruling letter and revocation of treatment relating to the classification of a vehicle light housing.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)), this notice advises interested parties that Customs and Border Protection (CBP) is modifying one ruling letter relating to the tariff classification of a vehicle light housing under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). CBP is also revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed actions was published on July 13, 2005, in Volume 39, Number 29, of the CUSTOMS BULLETIN. No comments were received in response to the notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after November 13, 2005.

**FOR FURTHER INFORMATION CONTACT:** Kelly Herman, Tariff Classification and Marking Branch: (202) 572-8713.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is modifying one ruling letter pertaining to the tariff classification of a vehicle light housing. Although in this notice, CBP is specifically referring to the modification of New York Ruling Letter (NY) K88378, dated August 16, 2004, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical

transactions should have advised CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY K88378, CBP ruled that a vehicle light housing was classified in subheading 8512.20.4040, HTSUSA, which provides for "Electrical lighting or signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind used for cycles or motor vehicles; parts thereof: Other lighting or visual signaling equipment: visual signaling equipment . . . for vehicles of subheading 8701.20 or heading 8702, 8703, 8704, 8705 or 8711." Since the issuance of that ruling, CBP has reviewed the classification of this item and has determined that the cited ruling is in error as it pertains to the classification of the vehicle light housing, and that the vehicle light housing should be classified in subheading 8512.90.2000, HTSUS, which provides for "Electrical lighting or signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind used for cycles or motor vehicles; parts thereof: Parts: Of signaling equipment."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying NY K88378 and is revoking or modifying any other ruling not specifically identified, to reflect the proper classification of the vehicle light housing according to the analysis contained in Headquarters Ruling Letter (HQ) 967511, set forth as an attachment to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

DATED: August 29, 2005

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

Attachment

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 967511  
August 29, 2005  
CLA-2 RR:CTF:TCM 967511 KSH  
TARIFF NO.: 8512.90.2000

STEVEN B. VON DOBSCHUTZ  
SOUND OFF, INC.  
*P.O. Box 206*  
*5132 37th Avenue*  
*Hudsonville, MI 49426*

RE: Modification of New York Ruling Letter (NY) K88378, dated August 16, 2004; Classification of a vehicle light housing.

DEAR MR. VON DOBSCHUTZ:

This is in response to your letter of January 5, 2005, in which you request reconsideration of New York Ruling Letter (NY) K88378, issued to you on August 16, 2004, concerning the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of a vehicle light housing. The vehicle light housing was classified in subheading 8512.20.4040, HTSUS, which provides for "Electrical lighting or signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind used for cycles or motor vehicles; parts thereof: Other lighting or visual signaling equipment: visual signaling equipment . . . For the vehicles of subheading 8701.20 or heading 8702, 8703, 8704, 8705 or 8711." You assert that because the unit by itself does not provide any signaling or emit any light it is better classified in subheading 8512.90.2000, HTSUS, which provides for "Electrical lighting or signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind used for cycles or motor vehicles; parts thereof: Parts: Of signaling equipment." Since the issuance of NY K88378, CBP has reviewed the classification of this item and has determined that the cited ruling is in error as it pertains to the classification of the vehicle light housing.

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, 2186 (1993), notice of the proposed modification of NY K88378 was published in the Custom Bulletin, Vol. 39, No. 29, on July 13, 2005. No comments were received in response to the notice.

FACTS:

The submitted sample is a chrome colored vehicle light housing with a T-bracket attached by a bolt with two washers. It is a housing for a strobe, halogen, or LED warning light to be mounted on a police, fire, EMS, towing or other such emergency recovery vehicle. The unit by itself does not provide any signaling or emit any light. Upon importation, components such as reflector, lens, cable, light and connectors are added to produce an assembled light or it may be sold packed with a hardware kit, bagged and labeled.

**ISSUE:**

Whether the vehicle light housing is classifiable as visual signaling equipment of subheading 8512.20.4040, HTSUSA, or as a part of signaling equipment under subheading 8512.90.2000, HTSUSA.

**LAW AND ANALYSIS:**

Classification of goods under the HTSUSA is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation at the international level. While neither legally binding nor dispositive, the EN provide a commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings.

Subheading 8512.20.4040, HTSUS, provides for "Electrical lighting or signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind used for cycles or motor vehicles; parts thereof: Other lighting or visual signaling equipment: visual signaling equipment . . . For the vehicles of subheading 8701.20 or heading 8702, 8703, 8704, 8705 or 8711."

Subheading 8512.90.2000, HTSUS, provides for "Electrical lighting or signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind used for cycles or motor vehicles; parts thereof: Parts: Of signaling equipment."

GRI 2(a) states, in part, that incomplete or unfinished articles are to be classified as if complete or finished provided that, as imported, the incomplete or unfinished article has the essential character of the complete or finished article. Accordingly, if the vehicle light housing has the essential character of electrical lighting or signaling equipment, it was properly classified as such in NY K88378.

The unit, as imported, does not contain the reflector, lens, light bulb or LED module and cables. As such it is not a complete visual signaling equipment item, rather it is a part of visual signaling equipment. The absence of significant components without which the completed article could not function in its intended manner, results in a finding that the imported component does not possess the essential character of the finished good. See HQ 087981, dated December 21, 1990, and NY J80036, dated January 21, 2003. Therefore, it cannot be classified in the heading for the finished good and it is classifiable as a part.

**HOLDING:**

NY K88378, dated August 16, 2004, is hereby modified.

The vehicle light housing is classified in subheading 8512.90.2000, HTSUS, which provides for "Electrical lighting or signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind used for cycles or motor vehicles; parts thereof: Parts:

Of signaling equipment." The general, column one rate of duty is 2.5% *ad valorem*.

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

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

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