

Bureau of Customs and Border Protection

CBP Decisions

DEPARTMENT OF THE TREASURY

USCBP-2006-0108

19 CFR PARTS 12 AND 163

CBP Dec. 06-25

RIN 1505-AB73

ENTRY OF SOFTWOOD LUMBER PRODUCTS FROM CANADA

AGENCY: Customs and Border Protection, Homeland Security; Treasury.

ACTION: Interim rule.

SUMMARY: This document sets forth interim amendments to title 19 of the Code of Federal Regulations (CFR) establishing special entry requirements applicable to shipments of softwood lumber products from Canada. The interim amendments involve the collection of additional entry summary information for purposes of monitoring and enforcing the Softwood Lumber Agreement between the Governments of Canada and the United States, entered into on September 12, 2006.

DATES: Interim rule effective [insert date of filing for public inspection at the **Federal Register**]. Comments must be received on or before (insert date 60 days after date of publication in the **Federal Register**).

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2006-0108.

- Mail: Trade and Commercial Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, Bureau of Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Millie Gleason, Office of Field Operations, Tel: (202) 344-1131.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. The Bureau of Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim rule. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that supports such recommended change.

Background

Softwood Lumber Agreement

On September 12, 2006, the Governments of the United States and Canada (the “Parties”) signed a bilateral Softwood Lumber Agreement (“SLA 2006”) concerning trade in softwood lumber products. The scope of the SLA 2006 is limited to the softwood lumber products listed as covered by the Agreement in Annex 1A of that document. A copy of the SLA 2006 is available for public viewing on the website of the Office of the United States Trade Representative located at www.ustr.gov.

The SLA 2006 entered into force on October 12, 2006, (effective date), as designated by the Parties in an exchange of letters certifying that certain conditions have been met pursuant to Article II.1 of the Agreement. Unless terminated according to the terms set forth in Article XX, the SLA 2006 will remain in force until October 12, 2013, and may be extended by agreement of the Parties for an additional 2 years.

The SLA 2006, in pertinent part requires:

- The United States to retroactively revoke, in their entirety, any antidumping (AD) and countervailing duty (CVD) orders that relate to softwood lumber products beginning May 22, 2002 (the initiation date of the order) to the effective date of the Agreement, without the possibility of their reinstatement, and terminates all U.S. Department of Commerce proceedings related to the orders. The United States is also required to liquidate unliquidated entries subject to AD/CVD orders made on or after May 22, 2002, without regard to antidumping or countervailing duties, and with interest, pursuant to 19 U.S.C. 1677g(b).
- The United States to not initiate and/or take action concerning trade remedy investigations.
- Canada to apply export measures to exports of Softwood Lumber Products to the United States. For example, Canada will impose either an export charge or an export charge coupled with a volume restraint on exports of softwood lumber products to the United States from each Region described in the Agreement and issue Export Permits on each entry of softwood lumber products exported from Canada to the United States.

SLA 2006 Entry Requirements

In addition to the entry and entry summary information otherwise required for importation into the United States, as per section 484 of the Tariff Act of 1930, as amended, (19 U.S.C. 1484), the SLA 2006 obligates the United States to require that a U.S. importer provide specific information in connection with each entry of covered softwood lumber products from Canada. The information required under the SLA 2006 includes the following data elements:

- (1) The Region of Origin of the softwood lumber product. The identified Regions are: Alberta, British Columbia (B.C.) Coast, B.C. Interior, Manitoba, Ontario, Saskatchewan, and Quebec. The regions designated as B.C. Coast and B.C. Interior are defined in Forest Regions and Districts Regulation, B.C. Reg, 123/2003, which is available for public viewing at www.qp.gov.bc.ca/statreg/reg/F/Forest/123_2003.htm.
- (2) The Export Permit Number issued by the Government of Canada for the shipment; and
- (3) The original paper Certificate of Origin issued by the Maritime Lumber Bureau, where applicable.

Exclusions from SLA 2006 Export Measures

Article X of the SLA 2006 identifies lumber products that are first produced in certain Canadian provinces, or produced by specific companies, as excluded from the export measures set forth in the Agreement. Specifically, Article X provides that SLA 2006 export measures will not apply to the following products:

(1) Softwood lumber products first produced in the Maritimes from logs originating in the Maritimes or Maine, that are:

(i) Exported directly to the United States from a Maritime province or

(ii) Shipped to a province that is not a Maritime province, and reloaded or further processed and subsequently exported to the United States, provided that the products are accompanied by an original Certificate of Origin issued by the Maritime Lumber Bureau. An original Certificate of Origin issued by the Maritime Lumber Bureau is a required entry summary document by CBP. The Certificate must specifically state that the corresponding CBP entries are for softwood lumber products first produced in the Maritimes from logs originating in the Maritimes or Maine;

(2) Softwood lumber products first produced in the Yukon, Northwest Territories or Nunavut from logs originating therein; and

(3) Softwood lumber products produced by the companies listed in Annex 10 of the SLA 2006.

Certificate of Origin from Maritime Lumber Bureau

As the SLA 2006 requires softwood lumber products whose Region of Origin is the Maritimes to be accompanied by an original Certificate of Origin issued by the Maritime Lumber Bureau, and provides that the Certificate of Origin is a required entry summary document, CBP requires importers of this commodity to submit the original paper Certificate of Origin to CBP with the paper entry summary documentation (CBP Form 7501) for each entry. All other entries of softwood lumber products from Canada subject to the SLA 2006 may be filed electronically using the CBP Form e-7501.

It is noted that the Certificate of Origin issued by the Maritime Lumber Bureau is distinct from the NAFTA Certificate of Origin required under § 181.22 of title 19 of the CFR.

This interim regulation adds the Certificate of Origin to the "List of Records Required for the Entry of Merchandise" set forth in the Appendix to part 163. The list, commonly referred to as the "(a)(1)(A) list," implements section 509(e) of the Trade Act of 1930, as amended (19 U.S.C. 1509(e)), whereby CBP is required to identify and publish a list of the records and entry information that is required to be maintained and produced under section 509(a)(1)(A) of the Tariff Act of 1930, as amended by title VI of Public Law 103-182 (19 U.S.C. 1509(a)(1)(A)). Section 509(a)(1)(A) requires the production of

records, within a reasonable time after demand by CBP, “if such record is required by law or regulation for the entry of the merchandise (whether or not the Customs Service required its presentation at the time of entry).”

SLA 2006 Exchange of Information and Monitoring

In order to facilitate monitoring of the SLA 2006, and in order to ensure that Canadian exporters have obtained the required export permits, the SLA 2006 also sets forth various cooperative measures which include the periodic exchange of export and import information collected by the two countries. The SLA 2006 also requires the Parties to establish Technical Working Groups to ensure the effective implementation and application of the export charges and the administration of the customs-related aspects of the Agreement, including export permits, volume restraints, data collection, and exchange of information.

CBP Entry Requirements Specific to Softwood Lumber Products from Canada in Revised 19 CFR 12.140

The purpose of this document is to provide an appropriate regulatory context for the new requirements resulting from the SLA 2006. As these requirements relate to a special class of imported products, CBP is of the view that a distinct provision pertaining to this commodity and its specific entry requirements is appropriate. As existing § 12.140 of title 19 of the Code of Federal Regulations (CFR) contains obsolete provisions pertaining to a prior Softwood Lumber Agreement between the Governments of Canada and the United States that expired in March, 2001, this document amends, on an interim basis, § 12.140 to set forth the entry requirements mandated by the SLA 2006, as discussed below.

Section 12.140(a) sets forth definitions pertinent to the administration of this provision.

Section 12.140(b) specifies the information required to be collected pursuant to the SLA 2006. Importers are required to enter a letter code representing the softwood lumber product’s Canadian Region of Origin in the data entry field entitled “Country of Origin” located on the CBP Form 7501. Importers must also enter a Canadian-issued 8-digit export permit number preceded by a letter code designating either: (1) the date of shipment; (2) a Canadian Region whose exports of softwood lumber products are exempt from the export measures contained in the SLA 2006; or (3) a company listed in Annex 10 of the SLA 2006 as exempt from the Agreement’s export measures.

Section 12.140(c) states that where a softwood lumber product’s Region of Origin is the Maritimes, the original paper Certificate of Origin issued by the Maritime Lumber Bureau must be submitted to CBP with the paper entry summary documentation.

The letter codes described above are necessitated by the fact that the Canadian-issued Export Permit Number consists of eight digits, and the entry field for this data on the CBP Form 7501 holds nine digits. Accordingly, CBP uses an alpha-numeric code system whereby the first piece of data input into the Export Permit Number field on the CBP Form 7501 is a letter code designating either an exclusion from export measures based on a product's Region of Origin or a company's exempt-status, or the code is used to designate the date of shipment as defined in Article XXI.16 of the SLA 2006, in which the first twelve letters of the alphabet represent the twelve months of the year (e.g., "A" represents January, "B" represents February, etc.). These codes enable the United States to fulfill its information collection and exchange obligations under Article XV of the Agreement by being able to assess monthly volumes attributable to specific Regions and excluded companies.

It is also noted that the SLA 2006 recognizes two separate and distinct Canadian Regions comprising the territory of the Canadian Province of British Columbia. Article XXI.45 of the Agreement designates B.C. Coast and B.C. Interior as separate Regions for purposes of the SLA 2006. As noted above, the geographic boundaries of B.C. Coast and B.C. Interior are set forth in Forest Regions and Districts Regulation, B.C. Reg, 123/2003. The code "XD" is to be used to designate B.C. Coast in the "Country of Origin" data field on the CBP Form 7501. The code "XE" is to be used to designate B.C. Interior. These new codes, as well as the existing codes applicable to the other Regions designated in the SLA 2006, are posted on the Administrative Message Board in the Automated Commercial System (ACS). In addition, this information will be provided to all Automated Broker Interface (ABI) Administrative Message System filers.

The requirement to submit these data elements to CBP goes into effect upon the date of filing of these interim amendments for public inspection in the **Federal Register**.

As noted above, the "List of Records Required for the Entry of Merchandise" set forth in the Appendix to part 163 of title 19 of the CFR (19 CFR part 163) is amended by this document to reflect the entry document requirements mandated by the SLA 2006. Section IV of the Appendix currently lists 19 CFR 12.140 as the authority for the entry records requirements, "Province of first manufacture, export permit number and fee status of softwood lumber from Canada." This document revises that requirement to state that § 12.140(c) requires a "Certificate of Origin issued by Canada's Maritime Lumber Bureau."

Comments

Submitted comments will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 103.11(b) of title 19 of the CFR (19 CFR 103.11(b)), on regular

business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection, 799 9th St., N.W., Washington, D.C. Arrangements to inspect submitted documents should be made in advance by calling Joseph Clark at (202) 572-8768.

Inapplicability of Notice and Delayed Effective Date Requirements

Pursuant to 5 U.S.C. 553(a)(1), public notice and a delayed effective date are inapplicable to this interim regulation because it involves a foreign affairs function of the United States. The collection of information provided for in this interim regulation is required under the terms of the 2006 Softwood Lumber Agreement with Canada and is necessary to ensure effective monitoring of the operation of that Agreement.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this interim rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Paperwork Reduction Act

The collection of information referenced in this regulation, CBP Form 7501, has been previously reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under OMB-assigned control number 1651-0022.

Signing Authority

This document is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects

19 CFR Part 12

Bonds, Customs duties and inspection, Entry of merchandise, Imports, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise.

19 CFR Part 163

Customs duties and inspection, Reporting and recordkeeping requirements.

Amendment to the Regulations

For the reasons stated above, parts 12 and 163 of title 19 of the Code of Federal Regulations are amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for part 12 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

2. Section 12.140 is revised to read as follows:

§ 12.140 Entry of softwood lumber products from Canada.

The requirements set forth in this section are applicable for as long as the Softwood Lumber Agreement (SLA 2006), entered into on September 12, 2006, by the Governments of the United States and Canada, remains in effect.

(a) Definitions. The following definitions apply for purposes of this section:

(1) British Columbia Coast. “British Columbia Coast” means the Coastal Forest Regions as defined by the existing Forest Regions and Districts Regulation, B.C. Reg. 123/2003.

(2) British Columbia Interior. “British Columbia Interior” means the Northern Interior Forest Region and the Southern Interior Forest Region as defined by the existing Forest Regions and Districts Regulation, B.C. Reg. 123/2003.

(3) Date of shipment. “Date of shipment” means, in the case of products exported by rail, the date when the railcar that contains the products is assembled to form part of a train for export; otherwise, the date when the products are loaded aboard a conveyance for export. If a shipment is transshipped through a Canadian reload center or other inventory location, the date of shipment is the date the merchandise leaves the reload center or other inventory location for final shipment to the United States.

(4) Maritimes. “Maritimes” means New Brunswick, Canada; Nova Scotia, Canada; Prince Edward Island, Canada; and Newfoundland and Labrador, Canada.

(5) Region. “Region” means British Columbia Coast or British Columbia Interior as defined in paragraphs (a)(1) and (2) of this section; Alberta, Canada; Manitoba, Canada; Maritimes, Canada;

Northwest Territories, Canada; Nunavut Territory, Canada; Ontario, Canada; Saskatchewan, Canada; Quebec, Canada; or Yukon Territory, Canada.

(6) Region of Origin. “Region of Origin” means the Region where the facility at which the softwood lumber product was first produced into such a product is located, regardless of whether that product was further processed (for example, by planing or kiln drying) or was transformed from one softwood lumber product into another such product (for example, a remanufactured product) in another Region, with the following exceptions:

(i) The Region of Origin of softwood lumber products first produced in the Maritime Provinces from logs originating in a non-Maritime Region will be the Region where the logs originated; and

(ii) The Region of Origin of softwood lumber products first produced in the Yukon, Northwest Territories or Nunavut (the “Territories”) from logs originating outside the Territories will be the Region where the logs originated.

(7) SLA 2006. “SLA 2006” or “SLA” means the Softwood Lumber Agreement entered into between the Governments of Canada and the United States on September 12, 2006.

(8) Softwood lumber products. “Softwood lumber products” mean those products described as covered by the SLA 2006 in Annex 1A of the Agreement.

(b) Reporting requirements. In the case of softwood lumber products from Canada listed in Annex 1A of the SLA 2006, the following information must be included on the electronic entry summary documentation (CBP Form 7501) for each entry:

(1) Region of Origin. The letter code representing a softwood lumber product’s Canadian Region of Origin, as posted on the Administrative Message Board in the Automated Commercial System. (For example, the letter code “XD” designates softwood lumber products whose Region of Origin is British Columbia Coast. The letter code “XE” designates softwood lumber products whose Region of Origin is British Columbia Interior.)

(2) Export Permit Number. The 8-digit Canadian-issued Export Permit Number, preceded by one of the following letter codes:

(i) The letter code assigned to represent the date of shipment (i.e., “A” represents January, “B” represents February, “C” represents March, etc.), except for those softwood lumber products produced by a company listed in Annex 10 of the SLA 2006 or whose Region of Origin is the Maritimes, Yukon, Northwest Territories or Nunavut;

(ii) The letter code “X”, which designates a company listed in Annex 10 of the SLA 2006; or

(iii) The letter code assigned to represent the Maritimes (code M); Yukon (code Y); Northwest Territories (code W); or Nunavut (code N), for softwood lumber products originating in these regions.

(c) Original Maritime Certificate of Origin. Where a softwood lumber product's Region of Origin is the Maritimes, the original paper copy of the Certificate of Origin issued by the Maritime Lumber Bureau must be submitted to CBP with the paper entry summary documentation for each entry. The Certificate of Origin must specifically state that the corresponding CBP entries are for softwood lumber products first produced in the Maritimes from logs originating in the Maritimes or Maine.

(d) Recordkeeping. Importers must retain copies of export permits, certificates of origin, and any other substantiating documentation issued by the Canadian Government pursuant to the recordkeeping requirements set forth in part 163 of title 19 to the CFR.

PART 163 — RECORDKEEPING

3. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

* * * * *

4. The Appendix to part 163 is amended by removing the listing for § 12.140 and inserting in its place § 12.140(c) under section IV to read as follows:

Appendix to Part 163 - Interim (a)(1)(A) List

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IV. * * *

§ 12.140(c) Certificate of Origin issued by Canada's Maritime Lumber Bureau.

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CHRIS J. CLARK,
Acting Commissioner,
Bureau of Customs and Border Protection.

Approved: October 13, 2006

TIMOTHY E. SKUD,
Deputy Assistant Secretary of the Treasury.

General Notices

AGENCY INFORMATION COLLECTION ACTIVITIES: Application for Allowance in Duties

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: Application for Allowance in Duties. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a 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** (71 FR 47508) on August 17, 2006, 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 November 20, 2006.

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 Desk Officer at Nathan.Lesser@omb.eop.gov.

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: Application for Allowance in Duties

OMB Number: 1651-0007

Form Number: Form CBP-4315

Abstract: This collection is required by the CBP in instances of claims of damaged or defective merchandise on which an allowance in duty is made in the liquidation of the entry. The information is used to substantiate importer's claims for such duty allowances

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 12,000

Estimated Time Per Respondent: 8 minutes

Estimated Total Annual Burden Hours: 1,600

Estimated Total Annualized Cost on the Public: \$29,000

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: October 12, 2006

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

[Published in the Federal Register, October 19, 2006 (71 FR 61791)]

**AGENCY INFORMATION COLLECTION ACTIVITIES:
Application for Foreign Trade Zone Admission and/or Status
Transaction; Application for Foreign Trade Zone Activity
Report**

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: Application for Foreign Trade Zone Admission, Status Designation, and Activity Permit. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a 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** (71 FR 47509) on August 17, 2006, 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 November 20, 2006.

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 Desk Officer at Nathan.Lesser@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

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: Application for Foreign Trade Zone Admission and/or Status Transaction; Application for Foreign Trade Zone Activity Report

OMB Number: 1651-0029

Form Number: CBP Forms 214, 214A, 214B, 214C, and 216

Abstract: CBP Forms 214, 214A, 214B, and 214C, Application for Foreign-Trade Zone Admission and/or Status Designation, are used by business firms that bring merchandise into foreign trade zones in order to register the admission of such merchandise to zones, and to apply for the appropriate zone status.

Current Actions: This submission is being submitted to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change)

Affected Public: Businesses, Institutions

Estimated Number of Respondents: 10,000

Estimated Time Per Respondent: 7.9 hours

Estimated Total Annual Burden Hours: 79,500

Estimated Total Annualized Cost on the Public: \$2,000,000

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: October 12, 2006

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

[Published in the Federal Register, October 19, 2006 (71 FR 61790)]

**AGENCY INFORMATION COLLECTION ACTIVITIES:
Serially Numbered Substantial Containers Entering the
United States Duty-Free**

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

ACTION: Proposed collection; comments requested.

SUMMARY: CBP 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: Serially Numbered Substantial Containers Entering the U.S. Duty-Free. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously pub-

lished in the **Federal Register** (71 FR 47509) on August 17, 2006, 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 November 20, 2006.

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 Desk Officer at Nathan.Lesser@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

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: Serially Numbered Substantial Containers Entering the U.S. Duty-Free

OMB Number: 1651-0035

Form Number: N/A

Abstract: Marking is used to provide for duty-free entry of holders or containers that were manufactured in the United States, exported, and then returned without having been advanced in value or improved in condition. The regulations provide for duty-free entry of holders or containers of foreign manufacture if duty has been paid previously.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change)

Affected Public: Businesses, or other for-profit.

Estimated Number of Respondents: 20

Estimated Time Per Respondent: 4.5 hours

Estimated Total Annual Burden Hours: 90

Estimated Total Annualized Cost on the Public: \$1,350

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: October 12, 2006

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

[Published in the Federal Register, October 19, 2006 (71 FR 61791)]

**Bureau of Customs and Border Protection Trade
Symposium 2006: "The World of Trade - 5 Years After 9/11"**

AGENCY: Customs and Border Protection, Department of 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 panel discussions involving department 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 to register early.

DATES: Wednesday, December 13, 2006 (opening reception - 6 to 8 p.m.); Thursday, December 14, 2006 (panel discussions, luncheon and open forum with senior management - 8:30 a.m. to 6 p.m.); Friday, December 15, 2006 (half-day session with panel discussions - 8 a.m. to 1 p.m.) will be held.

ADDRESSES: The Trade Symposium will be held at the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. Upon entry into the building, a photo identification must be presented to the security guards.

FOR FURTHER INFORMATION CONTACT: The Office of Trade Relations at (202) 344-1440 or at traderelations@dhs.gov. ACS Client Representatives; CBP Account Managers; Regulatory Audit Trade Liaisons; or to obtain the latest information on the Symposium and 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.

SUPPLEMENTARY INFORMATION: The keynote speaker will be announced at a later date. The cost is \$250.00 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 November 1, 2006. All registrations must be made on-line through the CBP Web site (<http://www.cbp.gov>) and be confirmed with payment by credit card only. The JW Marriott Hotel, 1331 Pennsylvania Avenue, NW., Washington DC, has reserved a block of rooms for Wednesday through Friday, December 13-15, 2006 at a rate of U.S. \$239.00 per night. Reservations may be made directly with the hotel at (202) 393-2000 or 1-800-228-9290, or select the following link <http://marriott.com/property/propertypage/wasjw?groupCode=uscusca&app=resvlink> and reference the "CBP Trade Symposium."

DATED: October 17, 2006

RUSSELL UGONE,
Acting Director,
Office of Trade Relations.

[Published in the Federal Register, October 23, 2006 (71 FR 62115)]

**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 October 1, 2006, the interest rates for overpayments will remain at 7 percent for corporations and 8 percent for non-corporations, and the interest rate for underpayments will remain at 8 percent. This notice is published for

the convenience of the importing public and Customs and Border Protection personnel.

EFFECTIVE DATE: October 1, 2006.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, 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 2006-49, the IRS determined the rates of interest for the calendar quarter beginning October 1, 2006, and ending December 31, 2006. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). For corporate overpayments, the rate is the Federal short-term rate (5%) plus two percentage points (2%) for a total of seven percent (7%). For overpayments made by non-corporations, the rate is the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). These interest rates are subject to change for the calendar quarter beginning January 1, 2007, and ending March 31, 2007.

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 %	20 %	
010183	063083	16 %	16 %	
070183	123184	11 %	11 %	
010185	063085	13 %	13 %	
070185	123185	11 %	11 %	
010186	063086	10 %	10 %	
070186	123186	9 %	9 %	
010187	093087	9 %	8 %	
100187	123187	10 %	9 %	
010188	033188	11 %	10 %	
040188	093088	10 %	9 %	
100188	033189	11 %	10 %	
040189	093089	12 %	11 %	
100189	033191	11 %	10 %	
040191	123191	10 %	9 %	
010192	033192	9 %	8 %	
040192	093092	8 %	7 %	
100192	063094	7 %	6 %	
070194	093094	8 %	7 %	
100194	033195	9 %	8 %	
040195	063095	10 %	9 %	
070195	033196	9 %	8 %	
040196	063096	8 %	7 %	
070196	033198	9 %	8 %	
040198	123198	8%	7%	
010199	033199	7%	7%	6%
040199	033100	8%	8%	7%
040100	033101	9%	9%	8%
040101	063001	8%	8%	7%
070101	123101	7%	7%	6%
010102	123102	6%	6%	5%
010103	093003	5%	5%	4%
100103	033104	4%	4%	3%
040104	063004	5%	5%	4%
070104	093004	4%	4%	3%
100104	033105	5%	5%	4%

<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>
040105	093005	6%	6%	5%
100105	063006	7%	7%	6%
070106	123106	8%	8%	7%

Dated: October 6, 2006

JAYSON P. AHERN,
*Acting Commissioner,
Customs and Border Protection.*

[Published in the Federal Register, October 17, 2006 (71 FR 61062)]

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

Washington, DC, October 18, 2006,

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.

SANDRA L. BELL,
*Executive Director,
Regulations and Rulings.*

19 CFR PART 177

**MODIFICATION OF ONE RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
CLASSIFICATION OF A CERTAIN AIRBORNE DIGITAL
SENSOR SYSTEM**

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

ACTION: Notice of modification of one ruling letter and revocation of treatment relating to the classification of a certain airborne digital sensor system.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying one ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of the Leica ADS40 airborne digital sensor system. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published in the Customs Bulletin, Vol. 40, No. 37, on September 6, 2006. 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 December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Tariff Classification and Marking Branch, at (202) 572–8828.

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, a notice was published in the Customs Bulletin, Vol. 40, No. 37, on September 6, 2006, proposing to modify one ruling letter relating to the tariff classification of a certain airborne digital sensor system. No comments were received in response to the notice. As stated in the proposed notice, this modification will cover any rulings on the subject 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 ruling identified above. 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 have advised 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 is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved with 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 this final decision.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking HQ 967142 to reflect the proper tariff classification of the merchandise under heading 9015, HTSUS, specifically in subheading 9015.40.4000, HTSUSA, which provides for, *inter alia*: “Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliance, excluding compasses; . . . : Photogrammetrical surveying instruments and appliances: Electrical”, pursuant to the analysis set forth in Headquarters Ruling Letter (HQ) 968303 (Attachment). Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by it to substantially identical transactions.

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

DATED: October 13, 2006

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968303
October 13, 2006
CLA-2 RR:CTF:TCM 968303 HkP
CATEGORY: Classification
TARIFF NO.: 9015.40.4000

MR. LEONARD FLEISIG
TROUTMAN SANDERS, LLP
ATTORNEYS AT LAW
401 9th Street, NW, Suite 1000
Washington, DC 20004

RE: Modification of HQ 967142; Protest no. 3901-04-100443; Leica ADS40 airborne digital sensor system

DEAR MR. FLEISIG:

This is in reference to Headquarters Ruling Letter (“HQ”) 967142, dated September 17, 2004, in which the tariff classification of the Leica ADS40 airborne digital sensor system (“ADS40”) was determined under the Harmonized Tariff Schedule of the United States (“HTSUS”). U.S. Customs and Border Protection (“CBP”) classified the ADS40 in subheading 9015.40.8000, HTSUSA, as a photogrammetrical surveying instrument or appliance, “Other”. We have reconsidered HQ 967142 and determined that the tariff classification of the ADS40 is not correct.

As an initial matter, we note that under San Francisco Newspaper Printing Co. v. United States, 9 CIT 517, 620 F. Supp. 738 (1985), the decision on the merchandise that was the subject of Protest 3901-04-100443 was final

on both the protestant and CBP. Therefore, while we may review the law and analysis of HQ 967142, any decision taken herein would not impact the entries subject to that decision.

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 was published on September 6, 2006, in the Customs Bulletin, Volume 40, No. 37. No comments were received in response to this notice.

FACTS:

The ADS40 is an airborne digital sensor system, designed for aerial surveying and mapping applications, and was described in HQ 967142 as consisting of: a SH40 Sensor Housing which contains and protects the linear arrays; a lens (DO64 Digital Optics); a CU40 Control Unit - the personal computer running the operating system, and has a fiber optics link to the SH40, and includes a Position and Orientation System (POS), and a Global Positioning System (GPS); a MM40 Mass Memory, a removable array of high performance hard disks which receives the data from the SH40; a OI40 Operator Interface, which is a graphical user interface; and, Flight & Sensor Control Management System (FCMS) software which runs the ADS40 system. CBP classified the ADS40 in subheading 9015.40.8000, HTSUS, as other photogrammetrical surveying instruments and appliances.

Since issuing HQ 967142, CBP has learned that the linear array components of the ADS40 are rows of CCDs (charge coupled devices), that is, electronic devices capable of transforming a light pattern (image) into an electric charge pattern (an electronic image). A CCD consists of several individual elements that have the capability of collecting, storing and transporting electrical charge from one element to another. Each photosensitive element represents a picture element (pixel). One or more output amplifiers at the edge of the chip collect the signals from the CCD. The output amplifier converts the charge into a voltage. External electronics transform this output signal into a form suitable for monitors or frame grabbers. In a color image sensor an integral RGB color filter array provides color responsivity and separation. Choices for array type include linear array, frame transfer area array, full frame area array, and interline transfer area array. See video-equipment.globalspec.com/LearnMore/Sensors_Transducers_Detectors/Vision_...

ISSUE:

Whether the ADS40 airborne digital sensor system is an electrical photogrammetrical surveying instrument or appliance.

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

The HTSUS provisions under consideration are as follows:

9015	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof: * * *
9015.40	Photogrammetrical surveying instruments and appliances:
9015.40.4000	Electrical
9015.40.8000	Other

For the reasons set forth in HQ 967142, we find that the ADS40 is properly classified in heading 9015, HTSUS. Such reasoning is hereby incorporated by reference.

CBP previously classified the ADS40 in subheading 9015.40.8000, HTSUSA, as a photogrammetrical surveying instrument or appliances, "Other". Leica has argued that the ADS40 is an electrical photogrammetrical surveying instrument or appliance and should be classified in subheading 9015.40.4000, HTSUSA.

GRI 6 provides that the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to GRIs 1 through 5, on the understanding that only subheadings at the same level are comparable.

Additional U.S. Note 2 to Chapter 90, HTSUS, provides:

For the purposes of this chapter, the term "electrical" when used in reference to instruments, appliances, apparatus and machines, refers to those articles the operation of which depends on an electrical phenomenon which varies according to the factor to be ascertained.

Leica has explained that one of the factors to be ascertained is the luminous intensity of an object. When light generated by the object being surveyed hits the photosensitive diodes of the CCD chip, it causes the chip to generate an electrical impulse. The analog digital conversion process converts the impulses for each image dot into digital values for brightness. Photons impinging on an individual CCD element cause an analog electrical signal to be created in proportion to the intensity of the incoming radiation. This explanation is supported by the product literature. For instance, the Technical Reference Manual for the ADS40, in describing the ADS40 "filter transmission characteristics" states:

In order to acquire multispectral data with the ADS40 one must attempt to isolate the desired wavelengths of light that reach the CCDs. The answer lies in the isolation of wavelengths through filtration, using specifically designed straight edged narrow band color and NIR filters.

The literature further explains that the ADS40 spectral bands, when measured in wavelengths of light ("nm") are: Panchromatic 465–680 nm; Blue 430–490 nm; Green 535–585 nm; Red 610–660 nm; and Near infrared 835–885 nm. This split light is directed to the three CCD lines for RGB.

Because exposure to light causes the CCDs housed in the ADS40 to generate an electric impulse for the creation of images, and because the electric impulse generated varies according to the intensity of the light source (the wavelengths of light), we find that the ADS40 is an electrical instrument or appliance within the meaning of Additional U.S. Note 2 to Chapter 90, HTSUS. Accordingly, we find that the ADS40 is properly classified in subheading 9015.40.4000, HTSUSA.

HOLDING:

By application of GRI 1 and GRI 6, the Leica ADS40 digital sensor is classified in heading 9015, HTSUS, as a surveying instrument or appliance, and is specifically provided for in subheading 9015.40.4000, HTSUSA, which provides for: "Surveying (including photogrammetrical surveying) . . . instruments and appliances, . . . : Photogrammetrical surveying instruments and appliances: Electrical." The general column one rate of duty is Free.

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

EFFECT ON OTHER RULINGS:

HQ 967142 dated September 17, 2004, is hereby modified in accordance with the above analysis. In accordance with 19 U.S.C. §1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director;
Commercial and Trade Facilitation Division.

REVOCATION AND MODIFICATION OF TWELVE RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF BABIES' DRESSES WITH COORDINATING DIAPER COVERS.

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

ACTION: Revocation and modification of twelve tariff classification ruling letters and revocation of treatment relating to the classification of babies' dresses with coordinating diaper covers.

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 revoking six ruling letters and modifying six ruling letters relating to the tariff classification of babies' dresses with coordinating diaper covers under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). CBP is also revoking any treatment previously accorded by it to substantially identical transactions.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 31, 2006.

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, notice advising interested parties that CBP proposed to revoke six ruling letters and modify six ruling letters pertaining to the tariff classification of babies' dresses with coordinating diaper covers was published in the August 23, 2006, Customs Bulletin, Vol. 40 No. 35. No comments were received in response to the notice.

As stated in the proposed notice, this revocation and modification will cover any rulings on this merchandise that may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is re-

voking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the 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.

In NY K81728, CBP ruled, in part, that a babies' pullover dress and coordinating diaper cover were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses." Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the cited ruling is in error, and that the diaper cover should be classified in subheading 6209.20.5045, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Other: Other: Imported as parts of sets."

In NY D84595, CBP ruled that an infant's knit dress and matching diaper cover and scrungie were classified in subheading 6111.20.4000, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Dresses". Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the cited ruling is in error, and that the diaper cover and scrungie should be classified in subheading 6111.20.6030, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other: Imported as parts of sets."

In NY J83409, CBP ruled that a cotton knit dress and coordinating diaper cover were classified in subheading 6111.20.4000, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Dresses." Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper cover should be classified in subheading 6111.20.6030, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other: Imported as parts of sets."

In NY J89770, CBP ruled, in part, that a cotton woven dress and coordinating diaper cover were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses." Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper should be classified in subheading 6209.20.5045, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Other: Other: Imported as parts of sets."

In NY L86100, CBP ruled that a knit velour polyester and cotton woven dress and coordinating velour diaper cover were classified in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper cover should be classified in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other, Other: Imported as parts of sets.”

In NY L81905, CBP ruled, in part, that a cotton woven dress and coordinating diaper cover were classified in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper cover should be classified in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other, Other: Imported as parts of sets.”

In PD D81590, CBP ruled, in part, that a cotton knit dress and coordinating diaper cover were classified in subheading 6111.20.4000, HTSUSA, which provides for “Babies’ garments and clothing accessories, knitted or crocheted: Of cotton: Dresses.” Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper cover should be classified in subheading 6111.20.6030, HTSUSA, which provides for “Babies’ garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other, Other: Imported as parts of sets.”

In PD D81720, CBP ruled, in part, that a cotton woven sundress and coordinating diaper cover were classified in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper cover should be classified in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other, Other: Imported as parts of sets.”

In PD C81744, CBP ruled, in part, that two cotton woven dresses with coordinating diaper covers were classified in subheading 6209.20.1000, HTSUSA, which provide for “Babies’ garments and clothing accessories: Of cotton: Dresses.” Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper covers should be classified in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other, Other: Imported as parts of sets.”

In PD E87307, CBP ruled that a cotton woven dress and coordinating diaper cover were classified in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper cover should be classified in subheading 6111.20.6030, HTSUSA, which provides for “Babies’ garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other, Other: Imported as parts of sets.”

In PD F80382, CBP ruled, in part, that a cotton woven dress and coordinating diaper cover and headband were classified in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper cover and headband should be classified in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other, Other: Imported as parts of sets.”

In PD E87250, CBP ruled that a cotton twill dress and coordinating diaper cover were classified in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper cover should be classified in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other, Other: Imported as parts of sets.”

In NY J83409, CBP ruled that a cotton knit dress and coordinating diaper cover were classified in subheading 6111.20.4000, HTSUSA, which provides for “Babies’ garments and clothing accessories, knitted or crocheted: Of cotton: Dresses.” Since the issuance of that ruling, CBP has reviewed the classification of these items and has determined that the diaper cover should be classified in subheading 6111.20.6030, HTSUSA, which provides for “Babies’ garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other, Other: Imported as parts of sets.”

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying NY J89770, NY K81728, NY L81905, PD D81590, PD D81720, PD C81744 and revoking NY J83409, NY D84595, NY L86100, PD E87307, PD F80382, PD E87250 and any other ruling not specifically identified, to reflect the proper classification of babies’ dresses with coordinating diaper covers according to the analysis contained in Headquarters Ruling Letters (HQ) 968097 through 968108, set forth as Attachments A through L, respectively, 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 action will become effective 60 days after publication in the CUSTOMS BULLETIN.

DATED: October 12, 2006

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968097
October 12, 2006
CLA-2 RR:CTF:TCM 968097 KSH
CATEGORY: Classification
TARIFF NO.: 6209.20.1000, 6209.20.5045

LUDENE MURPHREE
GAP, INC.
345 Spear Street
San Francisco, CA 94105

RE: Modification of Port Decision Letter (PD) C81744, dated December 4, 1997; Classification of infants' wear from India.

DEAR MS. MURPHREE:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered Port Decision Letter (PD) C81744, issued to you on December 4, 1997, concerning the classification, in part, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of infant's cotton woven sundresses and coordinating diaper covers. The articles were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses". We have reviewed that ruling and found it to be in error as it pertains to the classification of the infants' sundresses and coordinating diaper covers. Therefore, this ruling modifies PD C81744.

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 PD C81744 was published in the Customs Bulletin, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garments at issue, identified as Style 312485 and Style 312487 are both sundresses, which share common features. They each have narrow straps, a scoop neckline in both the front and back and a smocked front bodice, and a 3 button closure in the back. The skirt portions are gathered and the bottoms are finished by hemming. These styles will be sold with a

matching diaper cover which has an elasticized waist and leg openings. While both styles are made from woven fabrics which were stated to be 100% cotton, style 312485 is primarily made from fabrics of solid colors and style 312487 is made from a plaid fabric. The garments are made in India.

ISSUE:

Whether the infants' dress sets are classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 62, HTSUSA, or as sets under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protections' (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6209	Babies' garments and clothing accessories
6209.20	Of cotton:
6209.20.1000	Dresses
	Other:
6209.20.50	Other,
	Other:
6209.20.5045	Imported as parts of sets
6209.20.5050	Other

The dresses and diaper covers at issue fall under the same subheading, 6209.20, HTSUS, which provides for babies' garments and clothing accessories of cotton.

GRI 6 provides that for legal purposes, classification of goods in the sub-headings of a heading shall be determined according to the terms of those

subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the same level are comparable**. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase “for legal purposes” the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dresses and diaper covers at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dresses are classifiable under subheading 6209.20.10, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The diaper covers are classifiable under subheading 6209.20.50, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other.”

At the statistical level, the diaper covers are potentially classifiable under subheading 6209.20.5045, as imported as parts of sets or subheading 6209.20.5050, HTSUSA, as other. Additional U.S. Note 1 to Chapter 62, HTSUSA, states:

For the purpose of heading 6209, the term “sets” means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper covers are intended to be worn with the dresses as a part of a set, they are classified in subheading 6209.50.5045, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies’ garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies’ garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies’ garments at issue therein were classified in their own subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dresses and diaper covers are classified in heading 6209, HTSUSA. The dresses are specifically provided for in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The general column one rate of duty is 11.8% *ad valorem*. By the same authority and additional US note 1 to Chapter 62, HTSUSA, the diaper covers are provided for in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other, Other: Imported as parts of sets.” The general column one rate of duty is 9.3% *ad valorem*.

Merchandise classified in subheadings 6209.20.1000 and 6209.20.5045, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are sub-

ject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas," which is available on our web cite at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web cite of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

PD C81744 is hereby modified. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director;
Commercial and Trade Facilitation Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968098
October 12, 2006
CLA-2 RR:CR:TE 968098 KSH
CATEGORY: Classification
TARIFF NO.: 6209.20.1000, 6209.20.5045

MS. SARALEE ANTRIM-SAZAN
CUSTOMS COMPLIANCE ADMINISTRATOR
CARMICHAEL INTERNATIONAL SERVICE
533 Glendale Boulevard
Los Angeles, CA 90026-5097

RE: Revocation of Port Decision Letter (PD) F80382, dated December 3, 1999; Classification of infants' wear from Thailand.

DEAR MS. ANTRIM-SAZAN:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered Port Decision Letter (PD) F80382, issued to you on December 3, 1999, on behalf of your client Shopko Stores, concerning the classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of an infant's cotton woven dress, coordinating diaper cover and headband. The articles were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses". We have reviewed that ruling and found it to be in error. Therefore, this ruling revokes PD F80382.

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 revocation of PD F80382 was published in the Customs Bulletin, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garments at issue, identified as style 0209210, is an infant's three-piece set consisting of a dress, diaper cover, and headband. All three items are constructed from 100% cotton woven fabric. The dress is sleeveless and features a round neckline, a partial back opening with three button closures, a gathered waist, and a hemmed bottom. The diaper cover features an elasticized waistband and elasticized leg openings. The headband is elasticized and is ornamented with a small satin bow. The dress set will be imported in newborn and infant sizes.

ISSUE:

Whether the infants' dress sets are classified individually pursuant to Note 13 to Chapter 62, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 62, HTSUSA, or as sets under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protections' (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6209	Babies' garments and clothing accessories
6209.20	Of cotton:
6209.20.1000	Dresses
	Other:
6209.20.50	Other,
	Other:
6209.20.5045	Imported as parts of sets
6209.20.5050	Other

The dress, diaper cover and headband at issue fall under the same subheading, 6209.20, HTSUS, which provides for babies' garments and clothing accessories of cotton.

GRI 6 provides that for legal purposes, classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the same level are comparable**. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase "for legal purposes" the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6209.20.10, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses." The diaper cover is classifiable under subheading 6209.20.50, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Other: Other."

At the statistical level, the diaper cover and headband are potentially classifiable under subheading 6209.20.5045, as imported as parts of sets or subheading 6209.20.5050, HTSUSA, as other. Additional U.S. Note 1 to Chapter 62, HTSUSA, states:

For the purpose of heading 6209, the term "sets" means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover and headband are intended to be worn with the dress as a part of a set, they are classified in subheading 6209.50.5045, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies' garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies' garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies' garments at issue therein were classified in their own subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress, diaper cover and headband are classified in heading 6209, HTSUSA. The dress is specifically provided for in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses." The general column one rate of duty is 11.8% *ad valorem*. By the same authority and additional US note 1 to Chapter 62, HTSUSA, the diaper cover and headband are provided for in subheading 6209.20.5045, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Other: Other: Imported as parts of sets." The general column one rate of duty is 9.3% *ad valorem*.

Merchandise classified in subheadings 6209.20.1000 and 6209.20.5045, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas," which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

PD F80382 is hereby revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968099
October 12, 2006
CLA-2 RR:CR:TE 968099 KSH
CATEGORY: Classification
TARIFF NO.: 6111.20.4000, 6111.20.6030

MS. HAZEL D. ERICTA
C.F.L. SPORTSWEAR TRADING, INC.
350 Fifth Avenue, Suite 4010
New York, NY 10118

RE: Revocation of New York Ruling Letter (NY) D84595, dated December 7, 1998; Classification of infants' wear from Macau.

DEAR MS. ERICTA:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered New York Ruling Letter (NY) D84595, issued to you on December 7, 1998, concerning the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of an infant's knit dress, scrungie and coordinating diaper cover. The articles were classified in subheading 6111.20.4000, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Dresses". We have reviewed that ruling and found it to be in error as it pertains to the

classification of the infants' pullover dress and coordinating diaper cover. Therefore, this ruling revokes NY D84595.

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 revocation of NY D84595 was published in the Customs Bulletin, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garments at issue, identified as Style #3F99022000B Sub 346, consist of an infant's knit dress with matching diaper cover and scrungie. The dress bodice is constructed of 100% cotton knit fabric and features a rib knit scoop neckline, and short sleeves. The skirt portion is constructed of 75% cotton, 25% polyester jacquard terry knit fabric. The raised loops form allover heart shaped pile designs on the ground fabric. The skirt portion features gathers at the high waist, and a hemmed bottom. The diaper cover is constructed of the same fabric as the bodice portion of the dress, and features an elasticized waist and elasticized leg openings. The scrungie is elasticized and is constructed of the same fabric as the skirt portion of the dress. The dress, panty and scrungie are imported in infants' sizes 12-24 months.

ISSUE:

Whether the infants' dress sets are classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 61, HTSUSA, or as sets under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protections' (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6111	Babies' garments and clothing accessories, knitted or crocheted:
6111.20	Of cotton:
6111.20.4000	Dresses
	Other:
6111.20.60	Other,
	Other:
6111.20.6030	Imported as parts of sets
6111.20.6070	Other

The dress, diaper cover and scrungie at issue fall under the same sub-heading, 6111.20, HTSUS, which provides for babies' garments and clothing accessories, knitted or crocheted of cotton.

GRI 6 provides that for legal purposes, classification of goods in the sub-headings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the same level are comparable**. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase "for legal purposes" the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6111.20.40, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Dresses." The diaper cover is classifiable under subheading 611.20.60, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other."

At the statistical level, the diaper cover and scrungie are potentially classifiable under subheading 6111.20.6030, as imported as parts of sets or subheading 6111.20.6070, HTSUSA, as other. Additional U.S. Note 1 to Chapter 61, HTSUSA, states:

For the purpose of heading 6111, the term "sets" means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover and scrungie are intended to be worn with the dress as a part of a set, they are classified in subheading 6111.20.6030, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies' garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies' garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies' garments at issue therein were classified in their own

subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress and diaper cover are classified in heading 6111, HTSUSA. The dress is specifically provided for in subheading 6111.20.4000, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Dresses." The general column one rate of duty is 11.5% *ad valorem*. By the same authority and additional US note 1 to Chapter 61, HTSUSA, the diaper cover and scrungie are provided for in subheading 6111.20.6030, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other, Other: Imported as parts of sets." The general column one rate of duty is 8.1% *ad valorem*.

Merchandise classified in subheadings 6111.20.4000 and 6111.20.6030, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas," which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

NY D84595 is hereby revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968100
October 12, 2006
CLA-2 RR:CR:TE 968100 KSH
CATEGORY: Classification
TARIFF NO.: 6209.20.1000, 6209.20.5045

MS. SHERRI DESJARDINS
MENLO WORLDWIDE TRADE SERVICES
P.O. Box 610715
Dallas, TX 75261

RE: Modification of New York Ruling Letter (NY) K81728, dated January 16, 2004; Classification of infants' wear from India.

DEAR MS. DESJARDINS:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered New York Ruling Letter (NY) K81728, issued to you on January 16, 2004, on behalf of your client Oshkosh B'Gosh, concerning the classification, in part, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of infants' pullover dresses and coordinating diaper covers. The articles were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses". We have reviewed that ruling and found it to be in error as it pertains to the classification of the infants' pullover dress and coordinating diaper cover. Therefore, this ruling modifies NY K81728.

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 K81728 was published in the Customs Bulletin, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garments at issue, identified as style G9151A are comprised of two pieces, each of which is manufactured from gingham fabric of 100% cotton. One of the pieces is a diaper cover, fully elasticized around the waistband. A wide-skirted, sleeveless, pullover dress, styled by narrow shoulder straps, extending from the elasticized, smocked portion of the straight-cut back, which fasten by means of buttons to the bib-front is designed to be worn over the diaper cover.

ISSUE:

Whether the infants' dress sets are classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 62, HTSUSA, or as sets under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protections' (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6209	Babies' garments and clothing accessories
6209.20	Of cotton:
6209.20.1000	Dresses
	Other:
6209.20.50	Other,
	Other:
6209.20.5045	Imported as parts of sets
6209.20.5050	Other

The dress and diaper cover at issue fall under the same subheading, 6209.20, HTSUS, which provides for babies' garments and clothing accessories of cotton.

GRI 6 provides that for legal purposes, classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the same level are comparable**. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase "for legal purposes" the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6209.20.10, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses." The diaper cover is classifiable under subheading 6209.20.50, HTSUSA,

which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other.”

At the statistical level, the diaper cover is potentially classifiable under subheading 6209.20.5045, as imported as parts of sets or subheading 6209.20.5050, HTSUSA, as other. Additional U.S. Note 1 to Chapter 62, HTSUSA, states:

For the purpose of heading 6209, the term “sets” means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover is intended to be worn with the dress as a part of a set, it is classified in subheading 6209.50.5045, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies’ garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies’ garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies’ garments at issue therein were classified in their own subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress and diaper cover are classified in heading 6209, HTSUSA. The dress is specifically provided for in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The general column one rate of duty is 11.8% *ad valorem*. By the same authority and additional US note 1 to Chapter 62, HTSUSA, the diaper cover is provided for in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other: Other: Imported as parts of sets.” The general column one rate of duty is 9.3% *ad valorem*.

Merchandise classified in subheadings 6209.20.1000 and 6209.20.5045, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the “Textile Status Report for Absolute Quotas,” which is available on our web cite at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web cite of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

NY K81728 is hereby modified. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

[ATTACHMENT E]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968101
October 12, 2006
CLA-2 RR:CTF:TCM 968101 KSH
CATEGORY: Classification
TARIFF NO.: 6209.20.1000, 6209.20.5045

FIFI PUDJJANTO
GAP INC.
345 Spear Street
San Francisco, CA 94105

RE: Modification of New York Ruling Letter (NY) J89770, dated October 28, 2003; Classification of infants' wear from India.

DEAR MS. PUDJJANTO:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered New York Ruling Letter (NY) J89770, issued to you on October 28, 2003, concerning the classification, in part, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of infants' cotton dresses and coordinating diaper covers. The articles were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses". We have reviewed that ruling and found it to be in error as it pertains to the classification of the infants' pullover dress and coordinating diaper cover. Therefore, this ruling modifies NY J89770.

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 J89770 was published in the *Customs Bulletin*, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garments at issue, identified as styles jmp448 and jmp313, are manufactured from woven fabric of 100% cotton, of denim and of printed canvas, respectively, and are comprised of two pieces. One of the pieces is a diaper cover, a panty-like garment, fully elasticized around the waistband and the leg openings. The other of these pieces is a full-length, pullover garment, characterized by A-line styling, by oversized armholes, by a rounded neckline, and by a vertical, zippered opening at the mid-section of the back.

ISSUE:

Whether the infants' dress sets are classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 62, HTSUSA, or as sets under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protections' (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6209	Babies' garments and clothing accessories
6209.20	Of cotton:
6209.20.1000	Dresses
	Other:
6209.20.50	Other,
	Other:
6209.20.5045	Imported as parts of sets
6209.20.5050	Other

The dress and diaper cover at issue fall under the same subheading, 6209.20, HTSUS, which provides for babies' garments and clothing accessories of cotton.

GRI 6 provides that for legal purposes, classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the same level are comparable**. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase "for

legal purposes” the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6209.20.10, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The diaper cover is classifiable under subheading 6209.20.50, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other.”

At the statistical level, the diaper cover is potentially classifiable under subheading 6209.20.5045, as imported as parts of sets or subheading 6209.20.5050, HTSUSA, as other. Additional U.S. Note 1 to Chapter 62, HTSUSA, states:

For the purpose of heading 6209, the term “sets” means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover is intended to be worn with the dress as a part of a set, it is classified in subheading 6209.50.5045, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies’ garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies’ garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies’ garments at issue therein were classified in their own subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress and diaper cover are classified in heading 6209, HTSUSA. The dress is specifically provided for in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The general column one rate of duty is 11.8% *ad valorem*. By the same authority and additional US note 1 to Chapter 62, HTSUSA, the diaper cover is provided for in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other, Other: Imported as parts of sets.” The general column one rate of duty is 9.3% *ad valorem*.

Merchandise classified in subheadings 6209.20.1000 and 6209.20.5045, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the “Textile Status Report for Absolute Quotas,” which is available on our web cite at www.cbp.gov. For

current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web cite of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

NY J89770 is hereby modified. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director;
Commercial and Trade Facilitation Division.



[ATTACHMENT F]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968102
October 12, 2006
CLA-2 RR:CTF:TCM 968102 KSH
CATEGORY: Classification
TARIFF NO.: 6209.20.1000, 6209.20.5045

DAVID J. EVAN, ESQ.
GRUNFELD, DESIDERIO, LEBOWITZ, SILVERMAN & KLESTADT
399 Park Avenue, 25th Floor
New York, NY 10022-4877

RE: Modification of New York Ruling Letter (NY) L81905, dated January 13, 2005; Classification of infants' wear from Indonesia.

DEAR MR. EVAN:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered New York Ruling Letter (NY) L81905, issued to you on January 13, 2005, on behalf of your client Ann Taylor, concerning the classification, in part, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of an infant's cotton dress and coordinating diaper cover. The articles were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses". We have reviewed that ruling and found it to be in error as it pertains to the classification of the infant's dress and coordinating diaper cover. Therefore, this ruling modifies NY L81905.

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 L81905 was published in the Customs Bulletin, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garments at issue, identified as style 119235, are manufactured from printed woven fabric of 100% cotton. Style 119235 for infants consists of an

unlined, sleeveless, scoop-necked, A-line, empire-styled dress, buttoning together at the center of the upper back with a matching diaper cover, elasticized around the waistband and around the leg openings.

ISSUE:

Whether the infant's dress set is classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 62, or as a set under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protections' (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6209	Babies' garments and clothing accessories
6209.20	Of cotton:
6209.20.1000	Dresses
	Other:
6209.20.50	Other,
	Other:
6209.20.5045	Imported as parts of sets
6209.20.5050	Other

The dress and diaper cover at issue fall under the same subheading, 6209.20, HTSUS, which provides for babies' garments and clothing accessories of cotton.

GRI 6 provides that for legal purposes, classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to

the above rules, **on the understanding that only subheadings at the same level are comparable.** GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase “for legal purposes” the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6209.20.10, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The diaper cover is classifiable under subheading 6209.20.50, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other.”

At the statistical level, the diaper cover is potentially classifiable under subheading 6209.20.5045, as imported as parts of sets or subheading 6209.20.5050, HTSUSA, as other. Additional U.S. Note 1 to Chapter 62, HTSUSA, states:

For the purpose of heading 6209, the term “sets” means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover is intended to be worn with the dress as a part of a set, it is classified in subheading 6209.50.5045, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies’ garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies’ garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies’ garments at issue therein were classified in their own subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress and diaper cover are classified in heading 6209, HTSUSA. The dress is specifically provided for in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The general column one rate of duty is 11.8% *ad valorem*. By the same authority and additional US note 1 to Chapter 62, HTSUSA, the diaper cover is provided for in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other: Imported as parts of sets.” The general column one rate of duty is 9.3% *ad valorem*.

Merchandise classified in subheadings 6209.20.1000 and 6209.20.5045, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current infor-

mation on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas," which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

NY L81905 is hereby modified. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director;
Commercial and Trade Facilitation Division.

[ATTACHMENT G]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968103
October 12, 2006
CLA-2 RR:CTF:TCM 968103 KSH
CATEGORY: Classification
TARIFF NO.: 6111.20.4000, 6111.20.6030

MARY L. IRISH
TALBOTS
One Talbots Drive
Hingham, MA 02043

RE: Modification of Port Decision Letter (PD) D81590, dated September 8, 1998; Classification of infants' wear from Macau.

DEAR MS. IRISH:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered Port Decision Letter (PD) D81590, issued to you on September 8, 1998, concerning the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of an infant's knit dress and coordinating diaper cover. The articles were classified in subheading 6111.20.4000, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Dresses". We have reviewed that ruling and found it to be in error. Therefore, this ruling modifies PD D81590.

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 PD D81590 was published in the Customs Bulletin, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garments at issue, identified as style 91141455, are made from a patterned knit fabric which is 97% cotton and 3% spandex. Style 91141455 consists of a pullover dress and diaper cover. The dress has short sleeves, a scoop front neckline and a full skirt. The sleeves and neck are finished with a band of self fabric capping. The skirt bottom is hemmed. There are 2 patch pockets on the skirt front. The matching diaper cover of this style has an enclosed elastic waistband and leg openings.

ISSUE:

Whether the infants' dress sets are classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 61, HTSUSA, or as sets under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protections' (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6111	Babies' garments and clothing accessories, knitted or crocheted:
6111.20	Of cotton:
6111.20.4000	Dresses
	Other:
6111.20.60	Other,
	Other:
6111.20.6030	Imported as parts of sets
6111.20.6070	Other

The dress and diaper cover at issue fall under the same subheading, 6111.20, HTSUS, which provides for babies' garments and clothing accessories, knitted or crocheted of cotton.

GRI 6 provides that for legal purposes, classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the same level are comparable**. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase "for legal purposes" the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6111.20.40, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Dresses." The diaper cover is classifiable under subheading 611.20.60, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other."

At the statistical level, the diaper cover is potentially classifiable under subheading 6111.20.6030, as imported as parts of sets or subheading 6111.20.6070, HTSUSA, as other. Additional U.S. Note 1 to Chapter 61, HTSUSA, states:

For the purpose of heading 6111, the term "sets" means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover is intended to be worn with the dress as a part of a set, it is classified in subheading 6111.20.6030, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies' garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies' garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies' garments at issue therein were classified in their own subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress and diaper cover are classified in heading 6111, HTSUSA. The dress is specifically provided for in subheading 6111.20.4000, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Dresses." The general column one rate of duty is 11.5% *ad valorem*. By the same authority and additional US note 1 to Chapter 61, HTSUSA, the diaper cover is provided for in subheading 6111.20.6030, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other: Imported as parts of sets." The general column one rate of duty is 8.1% *ad valorem*.

Merchandise classified in subheadings 6111.20.4000 and 6111.20.6030, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas," which is available on our web cite at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web cite of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

PD D81590 is hereby modified. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director;
Commercial and Trade Facilitation Division.



[ATTACHMENT H]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968104
October 12, 2006
CLA-2 RR:CTF:TCM 968104 KSH
CATEGORY: Classification
TARIFF NO.: 6209.20.1000, 6209.20.5045

LUDENE MURPHREE
GAP INC.
345 Spear Street
San Francisco, CA 94105

RE: Modification of Port Decision Letter (PD) D81720, dated September 18, 1998; Classification of infants' wear from China.

DEAR MS. MURPHREE:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered Port Decision Letter (PD) D81720, issued to you on September 18, 1998, concerning the classification, in part, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of an infant's cotton woven sundress and coordinating diaper cover. The articles were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses". We have reviewed that ruling and found it to be in error as it pertains to the classification of the infants' sundress and coordinating diaper cover. Therefore, this ruling modifies PD D81720.

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 PD D81720 was published in the *Customs Bulletin*, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garments at issue, identified as Style 477386, are made from a woven printed pique fabric which is 100% cotton. The style consists of two garments. The first is a sleeveless sundress with a partial back opening secured by 4 plastic buttons. This garment has a bib top in both the front and back, a square neckline in both the front and back and narrow shoulder straps. The gathered skirt portion is hemmed. The second garment is a diaper cover of identical fabric. The diaper cover has an elasticized waist and leg openings.

ISSUE:

Whether the infants' dress sets are classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 62, HTSUSA, or as sets under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protection's (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6209	Babies' garments and clothing accessories
6209.20	Of cotton:
6209.20.1000	Dresses
	Other:

6209.20.50	Other,
	Other:
6209.20.5045	Imported as parts of sets
6209.20.5050	Other

The dress and diaper cover at issue fall under the same subheading, 6209.20, HTSUS, which provides for babies' garments and clothing accessories of cotton.

GRI 6 provides that for legal purposes, classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the same level are comparable**. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase "for legal purposes" the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6209.20.10, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses." The diaper cover is classifiable under subheading 6209.20.50, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Other: Other."

At the statistical level, the diaper cover is potentially classifiable under subheading 6209.20.5045, as imported as parts of sets or subheading 6209.20.5050, HTSUSA, as other. Additional U.S. Note 1 to Chapter 62, HTSUSA, states:

For the purpose of heading 6209, the term "sets" means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover is intended to be worn with the dress as a part of a set, it is classified in subheading 6209.50.5045, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies' garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies' garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies' garments at issue therein were classified in their own subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress and diaper cover are classified in heading 6209, HTSUSA. The dress is specifically provided for in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments

and clothing accessories: Of cotton: Dresses.” The general column one rate of duty is 11.8% *ad valorem*. By the same authority and additional US note 1 to Chapter 62, HTSUSA, the diaper cover is provided for in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other: Imported as parts of sets.” The general column one rate of duty is 9.3% *ad valorem*.

Merchandise classified in subheadings 6209.20.1000 and 6209.20.5045, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the “Textile Status Report for Absolute Quotas,” which is available on our web cite at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web cite of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

PD D81720 is hereby modified. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director;
Commercial and Trade Facilitation Division.

[ATTACHMENT I]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968105
October 12, 2006
CLA-2 RR:CTF:TCM 968105 KSH
CATEGORY: Classification
TARIFF NO.: 6111.20.4000, 6111.20.6030

KAREN RIGGS
TALBOTS
One Talbots Drive
Hingham, MA 02043

RE: Revocation of New York Ruling Letter (NY) J83409, dated April 25, 2003; Classification of infants’ wear from China.

DEAR MS. RIGGS:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered New York Ruling Letter (NY) J83409, issued to you on April 25, 2003, concerning the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of an infant’s knit

dress and coordinating diaper cover. The articles were classified in subheading 6111.20.4000, HTSUSA, which provides for “Babies’ garments and clothing accessories, knitted or crocheted: Of cotton: Dresses”. We have reviewed that ruling and found it to be in error. Therefore, this ruling revokes NY J83409.

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 revocation of NY J83409 was published in the Customs Bulletin, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garments at issue, identified as style 35587006, are comprised of two coordinating pieces. One of the pieces, manufactured from finely knitted fabric of 100% cotton, is a diaper cover, fully elasticized around the waistband and around the leg openings, which will be worn under the other piece comprising this style. The other piece of style 35587006 is a dress, the long sleeves and bodice of which are manufactured from knitted, low-gauge fabric of 100% cotton, and the skirt portion of which is manufactured from finely knitted fabric of 100% cotton. The skirt portion is overlaid by sheer mesh fabric of 100% polyester.

ISSUE:

Whether the infants’ dress sets are classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 61, HTSUSA, or as sets under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protection’s (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression “textile garments” means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6111	Babies' garments and clothing accessories, knitted or crocheted:
6111.20	Of cotton:
6111.20.4000	Dresses
	Other:
6111.20.60	Other,
	Other:
6111.20.6030	Imported as parts of sets
6111.20.6070	Other

The dress and diaper cover at issue fall under the same subheading, 6111.20, HTSUS, which provides for babies' garments and clothing accessories, knitted or crocheted of cotton.

GRI 6 provides that for legal purposes, classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the same level are comparable**. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase "for legal purposes" the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6111.20.40, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Dresses." The diaper cover is classifiable under subheading 611.20.60, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other."

At the statistical level, the diaper cover is potentially classifiable under subheading 6111.20.6030, as imported as parts of sets or subheading 6111.20.6070, HTSUSA, as other. Additional U.S. Note 1 to Chapter 61, HTSUSA, states:

For the purpose of heading 6111, the term "sets" means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover is intended to be worn with the dress as a part of a set, it is classified in subheading 6111.20.6030, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies' garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies' garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies' garments at issue therein were classified in their own

subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress and diaper cover are classified in heading 6111, HTSUSA. The dress is specifically provided for in subheading 6111.20.4000, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Dresses." The general column one rate of duty is 11.5% *ad valorem*. By the same authority and additional US note 1 to Chapter 61, HTSUSA, the diaper cover is provided for in subheading 6111.20.6030, HTSUSA, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other, Other: Imported as parts of sets." The general column one rate of duty is 8.1% *ad valorem*.

Merchandise classified in subheadings 6111.20.4000 and 6111.20.6030, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas," which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

NY J83409 is hereby revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

[ATTACHMENT J]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968106
October 12, 2006
CLA-2 RR:CTF:TCM 968106 KSH
CATEGORY: Classification
TARIFF NO.: 6209.20.1000, 6209.20.5045

LUDENE MURPHREE
IMPORT COMPLIANCE MANAGER
GAP INC.
*345 Spear Street
San Francisco, CA 94105*

RE: Revocation of Port Decision Letter (PD) E87307, dated October 12, 1999; Classification of infants' wear from Sri Lanka.

DEAR MS. MURPHREE:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered Port Decision Letter (PD) E87307, issued to you on October 12, 1999, concerning the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of an infant's cotton dress and coordinating diaper cover. The articles were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses". We have reviewed that ruling and found it to be in error. Therefore, this ruling revokes PD E87307.

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 revocation of PD E87307 was published in the Customs Bulletin, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garment at issue, identified as Style 196351, is made from a light-weight woven fabric that is 100% cotton denim. This style is a sleeveless dress with a partial back opening secured by 3 metal snaps, a slightly scoop neckline in the front and a round neckline in the back. The skirt portion is gathered. The neckline and armholes are finished with capping; the bottom is hemmed. A pull-on diaper cover will be imported with this dress. The diaper cover, made from the same fabric, has elasticized leg openings and a covered elastic waistband. Style 196351 will be imported in baby sizes 0-3 and 6-12 months.

ISSUE:

Whether the infants' dress sets are classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 62, HTSUSA, or as sets under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protections' (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6209	Babies' garments and clothing accessories
6209.20	Of cotton:
6209.20.1000	Dresses
	Other:
6209.20.50	Other,
	Other:
6209.20.5045	Imported as parts of sets
6209.20.5050	Other

The dress and diaper cover at issue fall under the same subheading, 6209.20, HTSUS, which provides for babies' garments and clothing accessories of cotton.

GRI 6 provides that for legal purposes, classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the same level are comparable**. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase "for legal purposes" the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6209.20.10, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses." The diaper cover is classifiable under subheading 6209.20.50, HTSUSA,

which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other.”

At the statistical level, the diaper cover is potentially classifiable under subheading 6209.20.5045, as imported as parts of sets or subheading 6209.20.5050, HTSUSA, as other. Additional U.S. Note 1 to Chapter 62, HTSUSA, states:

For the purpose of heading 6209, the term “sets” means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover is intended to be worn with the dress as a part of a set, it is classified in subheading 6209.50.5045, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies’ garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies’ garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies’ garments at issue therein were classified in their own subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress and diaper cover are classified in heading 6209, HTSUSA. The dress is specifically provided for in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The general column one rate of duty is 11.8% *ad valorem*. By the same authority and additional US note 1 to Chapter 62, HTSUSA, the diaper cover is provided for in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other, Other: Imported as parts of sets.” The general column one rate of duty is 9.3% *ad valorem*.

Merchandise classified in subheadings 6209.20.1000 and 6209.20.5045, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the “Textile Status Report for Absolute Quotas,” which is available on our web cite at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web cite of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

PD E87307 is hereby revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

[ATTACHMENT K]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968107
October 12, 2006
CLA-2 RR:CTF:TCM 968107 KSH
CATEGORY: Classification
TARIFF NO.: 6209.20.1000, 6209.20.5045

TERESA A. RAFFA
ASSOCIATED MERCHANDISING CORPORATION
1440 Broadway
New York, NY 10018

RE: Revocation of Port Decision Letter (PD) E87250, dated October 8, 1999; Classification of infants' wear from India.

DEAR MS. RAFFA:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered Port Decision Letter (PD) E87250, issued to you on October 8, 1999, concerning the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of infants' cotton dress and coordinating diaper cover. The articles were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses". We have reviewed that ruling and found it to be in error. Therefore, this ruling revokes PD E87250.

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 revocation of PD E87250 was published in the Customs Bulletin, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garment at issue, identified as style S01-3602, is an infant's dress and diaper cover made of 100 percent cotton twill fabric. The sleeveless dress features a Peter Pan collar, a full frontal opening with a six-button closure, a gathered skirt sewn to the bodice, two patch pockets below the waist, and a hemmed bottom. The collar, armholes, and pockets are finished with rickrack trim. The matching diaper cover has an elasticized waist and gathered leg openings with a straight band in the front and an elasticized band in back. The leg openings are finished with rickrack trim. The garment will be imported in infants' sizes 12 to 24 months.

ISSUE:

Whether the infants' dress sets are classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 62, HTSUSA, or as sets under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protections' (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6209	Babies' garments and clothing accessories
6209.20	Of cotton:
6209.20.1000	Dresses
	Other:
6209.20.50	Other,
	Other:
6209.20.5045	Imported as parts of sets
6209.20.5050	Other

The dress and diaper cover at issue fall under the same subheading, 6209.20, HTSUS, which provides for babies' garments and clothing accessories of cotton.

GRI 6 provides that for legal purposes, classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the same level are comparable**. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase "for

legal purposes” the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6209.20.10, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The diaper cover is classifiable under subheading 6209.20.50, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other.”

At the statistical level, the diaper cover is potentially classifiable under subheading 6209.20.5045, as imported as parts of sets or subheading 6209.20.5050, HTSUSA, as other. Additional U.S. Note 1 to Chapter 62, HTSUSA, states:

For the purpose of heading 6209, the term “sets” means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover is intended to be worn with the dress as a part of a set, it is classified in subheading 6209.50.5045, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies’ garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies’ garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies’ garments at issue therein were classified in their own subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress and diaper cover are classified in heading 6209, HTSUSA. The dress is specifically provided for in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The general column one rate of duty is 11.8% *ad valorem*. By the same authority and additional US note 1 to Chapter 62, HTSUSA, the diaper cover is provided for in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other, Other: Imported as parts of sets.” The general column one rate of duty is 9.3% *ad valorem*.

Merchandise classified in subheadings 6209.20.1000 and 6209.20.5045, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the “Textile Status Report for Absolute Quotas,” which is available on our web site at www.cbp.gov. For

current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web cite of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT IN OTHER RULINGS:

PD E87250 is hereby revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.



[ATTACHMENT L]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968108
October 12, 2006
CLA-2 RR:CTF:TCM 968108 KSH
CATEGORY: Classification
TARIFF NO.: 6209.20.1000, 6209.20.5045

MS. PATTI CORDO
AMERICAN CARGO EXPRESS, INC.
435 Division Street
Elizabeth, NJ 07201

RE: Revocation of New York Ruling Letter (NY) L86100, dated July 13, 2005; Classification of infants' wear from China.

DEAR MS. CORDO:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered New York Ruling Letter (NY) L86100, issued to you on July 13, 2005, on behalf of your client CWF USA, Inc., concerning the classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of an infant's cotton dress and coordinating diaper cover. The articles were classified in subheading 6209.20.1000, HTSUSA, which provides for "Babies' garments and clothing accessories: Of cotton: Dresses". We have reviewed that ruling and found it to be in error as it pertains to the classification of the infant's dress and coordinating diaper cover. Therefore, this ruling revokes NY L86100.

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 revocation of NY L86100 was published in the Customs Bulletin, Vol. 40, No. 35, on August 23, 2006. No comments were received in response to the notice.

FACTS:

The garments at issue, identified as style K170, consist of a loose-fitted, empire styled, short-sleeved dress, manufactured from a bodice of knitted

velour of 100% polyester and from a woven twill skirt of 100% cotton, and a diaper cover from the same velour fabric.

ISSUE:

Whether the infant's dress set is classified individually pursuant to Note 13 to Section XI, HTSUSA, as sets pursuant to Additional U.S. Note 1 to Chapter 62, HTSUSA, or as a set under General Rule of Interpretation 3(b) with the dress imparting the essential character.

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. It is Customs and Border Protection's (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Note 13 to Section XI, HTSUSA, requires textile garments of different headings be separately classified in their own headings even if put up in sets for retail sale unless the context otherwise requires. For purposes of Note 13, the expression "textile garments" means garments of headings 6101 to 6114 and headings 6201 to 6211.

Classification of goods through the six digit (international subdivision) level is accomplished by application of the General Rules of Interpretation (GRI) and relative section and chapter notes. The provisions at issue are as follows:

6209	Babies' garments and clothing accessories
6209.20	Of cotton:
6209.20.1000	Dresses
	Other:
6209.20.50	Other,
	Other:
6209.20.5045	Imported as parts of sets
6209.20.5050	Other

The dress and diaper cover at issue fall under the same subheading, 6209.20, HTSUS, which provides for babies' garments and clothing accessories of cotton.

GRI 6 provides that for legal purposes, classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, **on the understanding that only subheadings at the**

same level are comparable. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level. Since GRI 6 uses the phrase “for legal purposes” the preceding GRIs are to be applied at the level necessary for the final legal classification of the goods for tariff purposes.

By application of GRI 6 and following Note 13 to Section XI, HTSUSA, the dress and diaper cover at issue are separately classified because they fall under different subheadings at the eight digit subheading level. Accordingly, the dress is classifiable under subheading 6209.20.10, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The diaper cover is classifiable under subheading 6209.20.50, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other.”

At the statistical level, the diaper cover is potentially classifiable under subheading 6209.20.5045, as imported as parts of sets or subheading 6209.20.5050, HTSUSA, as other. Additional U.S. Note 1 to Chapter 62, HTSUSA, states:

For the purpose of heading 6209, the term “sets” means two or more different garments of headings 6111, 6209 or 6505 imported together, of corresponding sizes and intended to be worn together by the same person.

As the diaper cover is intended to be worn with the dress as a part of a set, it is classified in subheading 6209.50.5045, HTSUSA.

Our decision is consistent with prior rulings in which CBP determined classification of babies’ garment sets was governed by Note 13 to Section XI, HTSUSA, and GRI 6 where the components were classified in different subheadings at the six and eight digit level. In HQ 083685, dated March 2, 1989, CBP addressed the issue of the classification of babies’ garment sets containing two or more different garments of different textile compositions. In that ruling, CBP held that by application of Note 13 to Section XI, HTSUSA, the babies’ garments at issue therein were classified in their own subheadings even if put up in sets for retail sale. See also, HQ 085298, dated November 13, 1989 and HQ 951883, dated September 18, 1992. Therefore, classification under GRI 3(b) is not applicable.

HOLDING:

By application of GRI 1, HTSUSA, the cotton dress and diaper cover are classified in heading 6209, HTSUSA. The dress is specifically provided for in subheading 6209.20.1000, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Dresses.” The general column one rate of duty is 11.8% *ad valorem*. By the same authority and additional US note 1 to Chapter 62, HTSUSA, the diaper cover is provided for in subheading 6209.20.5045, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of cotton: Other: Other: Imported as parts of sets.” The general column one rate of duty is 9.3% *ad valorem*.

Merchandise classified in subheadings 6209.20.1000 and 6209.20.5045, HTSUSA, falls within textile category 239. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we

suggest you check, close to the time of shipment, the “Textile Status Report for Absolute Quotas,” which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

NY L86100 is hereby revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

19 CFR PART 177

**REVOCATION OF RULING LETTER AND REVOCATION OF
TREATMENT RELATING TO THE CLASSIFICATION OF
CERTAIN DC TO DC CONVERTERS**

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

ACTION: Notice of revocation of one ruling letter and revocation of treatment relating to the classification of certain DC to DC converters.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking one ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of certain DC to DC converters. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published in the Customs Bulletin, Vol. 40, No. 34, on August 16, 2006. 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 December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Tariff Classification and Marking Branch, at (202) 572–8828.

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, a notice was published in the Customs Bulletin, Vol. 40, No. 34, on August 16, 2006, proposing to revoke one ruling letter relating to the tariff classification of certain DC to DC converters. No comments were received in response to the notice. As stated in the proposed notice, this revocation will cover any rulings on the subject 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 ones identified. No further rulings have been found. Any party who 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 have advised 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 is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved with 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 this final decision.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY K83213 to reflect the proper classification of the merchandise under heading 8504, HTSUS, specifically in subheading 8504.40.95, HTSUS, which provides for: “Electrical converters, static converters (for example, rectifiers) and inductors; parts thereof: Static converters: Other” in accordance with the analysis set forth in Headquarters Ruling Letter (HQ) 968273 (Attachment A). Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by it to substantially identical transactions.

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

DATED: October 12, 2006

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968273
October 12, 2006
CLA-2 RR:CTF:TCM 968273 HkP
CATEGORY: Classification
TARIFF NO.: 8504.40.95

MR. W. ROBB LANE
IMPORT COMPLIANCE MANAGER
ERICSSON, INC.
6300 Legacy Drive
Plano, TX 75024

RE: Revocation of NY K83213; DC/DC power converters from China

DEAR MR. LANE:

This is in reference to New York Ruling Letter (“NY”) K83213, issued to you on March 10, 2004, on behalf of your company, Ericsson, Inc. (“Ericsson”). In NY K83213, U.S. Customs and Border Protection (“CBP”) classified Ericsson’s PKM, PKL, PKJ, and PKB series of DC to DC converters as hybrid integrated circuits under subheading 8542.60.0095 of the Harmonized Tariff Schedule of the United States (“HTSUS”). We have reviewed NY K83213 and found it to be incorrect. This letter sets forth the correct classification.

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 revocation was published on August 16, 2006, in the Customs Bulletin, Volume 40, No. 34. No comments were received in response to this notice.

FACTS:

NY K83213 described the manufacture of the subject merchandise as follows:

The PKM, PKL, PKJ, and PKB series are all manufactured on Fire Retardant, level 4 (FR4), printed circuit board (PCB) material. The parts, capacitors, resistors, diodes, transistors, integrated circuits (ICs), etc., are soldered onto the PCB using a thick film process, in two stages. Stage one involves lamination of a copper foil onto an insulating polyamide substrate. In stage two, a conductive pattern is photo-exposed onto the copper, which is then layered with solder and a protective coating is applied to the substrate. The printed circuit board is then sent to Ericsson Simtek Electronics Co., Ltd., in China where the substrate is populated with discrete and passive and active components, directly onto the conductive pattern. It is then heat-bonded.

CBP concluded that because of “the indivisible combination of the passive elements, obtained by thick-film technology, and active elements, obtained by semiconductor technology, which were mounted directly onto a single insulating substrate”, these converters were classifiable as hybrid integrated circuits under subheading 8542.60.00, HTSUS.

It is now CBP’s position that the manufacturing process described is neither thin- nor thick-film technology and, accordingly, the subject merchandise are not hybrid integrated circuits as defined by the HTSUS.

ISSUE:

What is the correct classification of Ericsson’s PKM, PKL, PKJ, and PKB series DC/DC power converters?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

The HTSUS provisions under consideration are as follows:

8504	Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof: * * *
8504.40	Static converters: * * *
8504.40.95	Other
8542	Electronic integrated circuits and microassemblies; parts thereof: * * *
8542.60.00	Hybrid integrated circuits

Heading 8542, which is in Chapter 85, HTSUS, provides for electronic integrated circuits. Note 5(b) to Chapter 85, HTSUS, provides, in pertinent part:

“Electronic integrated circuits and microassemblies” are:

- (ii) Hybrid integrated circuits in which passive elements (resistors, capacitors, interconnections, etc.) obtained by thin- or thick-film technology and active elements (diodes, transistors, monolithic integrated circuits, etc.) obtained by semiconductor technology, are combined to all intents and purposes indivisibly, on a single insulating substrate (glass, ceramic, etc.). These circuits may also include discrete components.

The Electrical Engineering Handbook (the “Engineering Handbook”) (Richard C. Dorf, Ed.) explains that thick film resistors are formed by screen printing on a substrate, usually alumina, followed by sintering at approximately 800 degrees Celsius for 10 minutes. At 1104. The Oxford English Dictionary (www.askoxford.com) states that to “screen-print” is to “force ink on to (a surface) through a prepared screen of fine material so as to create a picture or pattern.” More generally, the Engineering Handbook explains, “deposited film resistors are formed by depositing resistance films on an insulating substrate which are etched and patterned to form the desired resistive network. Depending on the thickness and dimensions of the deposited films, the resistors are classified into thick-film and thin-film resistors.” At 13. See generally Headquarters Ruling Letter (“HQ”) 961050, dated May 1, 2000, regarding the manufacturing of hybrid integrated circuits.

In NY K83213, we are told that the converters under consideration are formed by laminating copper foil onto a polyamide substrate, which is then photo-exposed to a conductive pattern. The copper is then layered with solder and a protective coating applied. We find this process to be different from the thick-film process described above. We note that, in order to be considered a “hybrid integrated circuit”, Note 5(b) to Chapter 85, HTSUS, requires (1) the passive elements to be obtained by thin- or thick-film technology, and (2) the active elements to be obtained by semiconductor technology. The subject converters do not fulfill the terms of Note 5(b), because their passive elements are not manufactured using thick- or thin-film technology. Consequently, the subject converters are not classifiable in heading 8542, HTSUS.

Heading 8504, HTSUS, provides for, *inter alia*, static converters. The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the HTSUS. While not legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89–80. Explanatory Note 85.04(II)(D) indicates that direct current converters, by which direct current is converted to different voltages, are included in the group “electrical static converters”. Because the subject converters convert direct current to different voltages, we find that they are properly classified in heading 8504, HTSUS.

HOLDING:

By application of GRI 1, Ericsson’s PKM, PKL, PKJ, and PKB series of DC to DC converters are correctly classified in heading 8504, HTSUS, and are specifically provided for in subheading 8504.40.95, HTSUS, which provides

for: "Electrical converters, static converters (for example, rectifiers) and inductors; parts thereof: Static converters: Other."

The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY K83213, dated March 10, 2004, is hereby revoked. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

**REVOCATION OF RULING LETTER AND TREATMENT
RELATING TO TARIFF CLASSIFICATION OF A
FOUNDATION UNDERGARMENT**

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

ACTION: Revocation of treatment and revocation of ruling relating to the classification of a foundation undergarment.

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 revoking one ruling letter relating to the tariff classification of a foundation undergarment under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published on August 30, 2006, in Volume 40, Number 36, of the CUSTOMS BULLETIN. CBP received no comments in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Ann Segura Minardi, Tariff Classification and Marking Branch, (202) 572-8822.

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 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 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, notice proposing to revoke one ruling letter pertaining to the tariff classification of a foundation undergarment was published in the August 30, 2006, CUSTOMS BULLETIN, Volume 40, No. 36. No comments were received. As stated in the proposed notice, this revocation will cover any rulings on this merchandise that may exist but have not been specifically identified. Any party who has received an interpretative ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In New York Ruling Letter (NY) L82586, dated March 11, 2005, the subject undergarment was classified in subheading 6212.30.0020, HTSUSA, which provides for “Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted: Corsets, Of man-made fibers”.

CBP has now determined that this merchandise is classified in subheading 6212.90.0030, HTSUSA, which provides for “Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and

parts thereof, whether or not knitted or crocheted: Other, Of man-made fibers or man-made fibers and rubber or plastics." Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY L82586 and any other rulings not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letter (HQ) 967616, which is 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.

DATED: October 12, 2006

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

[Attachment]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967616
October 12, 2006
CLA-2 RR:CTF:TCM 967616 ASM
CATEGORY: Classification
TARIFF NO.: 6212.90.0030

VINCENT BOWEN, ESQ.
2515 K Street, NW
Suite 101
Washington, DC 20037

RE: Revocation of NY L82586; Classification of Foundation Undergarment

DEAR MR. BOWEN:

This is in response to a letter filed by the Customs Advisory Services, Inc., dated April 9, 2005, on behalf of "Maidenform"TM, concerning their request for reconsideration of Customs and Border Protection (CBP) New York Ruling Letter (NY) L82586, dated March 11, 2005, involving the classification of a foundation undergarment under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). In correspondence to this office dated February 9, 2006, you confirmed that you are the attorney of record and designated contact. A letter dated February 10, 2006, from the Customs Advisory Services, Inc., verified that you are assisting in this matter. We have carefully examined the samples submitted to this office and will return them to you under separate cover. We have also reviewed supplemental written submissions dated October 11, 2005, and February 10, 2006. In addition, a meeting was held with you and representatives of the importer on February 23, 2006.

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 revocation of NY L82586 was

published in the *Customs Bulletin*, Vol. 40, No. 36, on August 30, 2006. No comments were received in response to the notice.

FACTS:

The article at issue is a foundation undergarment, Style 7713. The lace cups, lace front and side panels, are constructed of 91% nylon and 9% elastane net and lace fabrics. The center front lining is 100 percent nylon. The rest of the article is made of 72% nylon and 28% elastane knit fabric. The garment has lightly padded molded underwire cups covered with decorative lace, removable garters, and removable shoulder straps. The garment extends below the waist and covers the upper abdomen. The article has six plastic vertical stays that have been sewn to the interior of the undergarment and secured by a soft fabric sleeve. The adjustable back closure consists of six hooks and two rows of six eyes. The front features a large center panel, approximately 6 ½ inches wide (at the widest point) x 10 inches long, constructed of two-ply net fabric that resists horizontal and vertical stretching. The front side panels are constructed of a decorative lace panel attached to an elastic stretch net fabric.

The two back panels also consist of the same elastic stretch net fabric found on the front side panels. Two of the plastic stays, which measure approximately 12 inches in length, extend from the lower portion of the brassiere underwire at the mid-point of the cup. Two more plastic stays run straight down either side of the undergarment and measure approximately 10 inches in length. The plastic stays attached at the back panels, which are sewn about 1 inch from the hook and eye closure, measure approximately 6 inches in length. The removable garters are either attached directly to the garment or are placed into a small polybag, which is attached to the garment. The hangtag on the sample identifies the article as a "Maidenform"TM "One Fabulous Fit"TM undergarment. However, "Maidenform"TM promotional literature for Style 7713, accessed at www.maidenform.com, identifies the subject article as the "One Fabulous Moment"TM Bustier.

In NY L82586, the subject undergarment was classified in subheading 6212.30.0020, HTSUSA, which provides for "Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted: Corsets, Of man-made fibers". You disagree with this classification and claim that the article is classified in subheading 6212.90.0030, HTSUSA, which provides for "Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted: Other, Of man-made fibers or man-made fibers and rubber or plastics."

ISSUE:

What is the proper classification for the merchandise?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the heading and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the Harmonized System at

the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Heading 6212, HTSUSA, provides for, “Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted.” The EN to heading 6212, HTSUS, states, in pertinent part:

This heading covers articles of a kind designed for wear as body-supporting garments or as supports for certain other articles of apparel, and parts thereof. These articles may be made of any textile material including knitted or crocheted fabrics (whether or not elastic).

The heading includes, *inter alia*:

- (1) Brassieres of all kinds.
- (2) Girdles and panty-girdles.
- (3) Corselettes (combinations of girdles or panty-girdles and brassieres).
- (4) Corsets and corset-belts. These are usually reinforced with flexible metallic or plastic stays, and are generally fastened by lacing or by hooks.
- (5) Suspender-belts, . . . garters, . . .

* * *

The article now in question combines multiple features into one undergarment: a lightly padded brassiere with underwire at the cups, adjustable straps, net fabric panels at the front and back that cover the torso and extend below the waist, and garters for supporting and securing hose. However, in order to determine whether or not the subject undergarment can be classified under heading 6212, HTSUSA, as one of the specifically named exemplars, we have undertaken a review of the lexicographic sources.

A “corset” is defined as:

Women’s one piece sleeveless, laced garment for shaping the figure. Generally a heavily boned, rigid garment worn from 1820s to 1930s. Since 1940s made of lighter-weight elasticized fabrics and called a girdle or foundation garment. *Fairchild’s Dictionary of Fashion* 2d Edition.

A stiff shaping garment of the torso, tending to pronounced diminution of the waist and raising of the bust. A variant was used by men as well. *Infra-Apparel*, Richard Martin and Harold Koda (1993), at 47.

A woman’s close-fitting boned supporting undergarment often hooked and laced, extending from above or beneath the bust or from the waist to below the hips, and having garters attached—sometimes used in pl. *Webster’s Third New International Dictionary of the English Language* (1968), at 513.

Based on these definitions, the “corset” features a combination of body supporting elements that lift the bustline, diminish the waistline, and flatten the abdomen. In fact, the undergarment now in question does not share all the same features of the “corset” described above. Although style 7713 has underwire construction in the bra, which firmly supports and raises the

bustline as described in the definition, the garment fails to meet a key function of a corset, which is to hold in the waist area. However, as the garment does provide some body support and provides support for other articles of apparel, i.e., stockings, the garment is classifiable in heading 6212, HTSUSA, as "similar articles."

After careful examination of the subject undergarment, we now concur with the importer's assertion that the article does not provide a "cinching, reshaping or molding" function. The back panels of the garment are only 4.5 inches wide at the closure, which provides little cinching effect at the waist. Furthermore, the front side panels are constructed of very lightweight elastic fabric designed to stretch to accommodate the wearer's body type rather than to cinch, reshape, or mold the waistline or abdomen. Although the article is designed to support the bustline, it fails to provide the necessary reshaping, molding, or cinching effect to the torso and upper abdomen while also failing to diminish the waistline.

This determination is consistent with our decision in Headquarters Ruling Letter (HQ) 964224, dated June 13, 2001, in which a women's one-piece undergarment, with underwire brassiere, lace panels descending to below the waist, and four detachable garters, was classified as an "other" garment in subheading 6212.90.0030, HTSUSA. In addition, HQ 956668, dated February 28, 1995, and HQ 959284, dated October 29, 1996, classified undergarments similar to the one now at issue, having vertical stays, powernet fabric, underwire cups, detachable garters, and hook and eye closures, in subheading 6212.90.0030, HTSUSA.

In view of the foregoing, it is our determination that the subject undergarment is similar to the "corsets" which are specifically provided for under heading 6212, HTSUSA, and the ENs. As such, the article is properly classified as an "Other" garment under subheading 6212.90.0030, HTSUSA. Thus, it is our determination that NY L82586 incorrectly classified the undergarment as a "corset" in subheading 6212.30.0020, HTSUSA.

HOLDING:

The subject merchandise, a foundation garment identified as Style 7713, is correctly classified in subheading 6212.90.0030, HTSUSA, which provides for "Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted: Other, Of man-made fibers or man-made fibers and rubber or plastics." The general column one duty rate is 6.6 percent *ad valorem*. The textile quota category is 659.

Quota/visa requirements are no longer applicable for merchandise, which is the product of World Trade Organization (WTO) member countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas", which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions and related issues, we refer you to the web site at the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

Please note that the duty rates set forth in this ruling letter are merely provided for your convenience and are subject to change. The text of the most recent HTSUSA and the accompanying duty rates are provided on the World Wide Web at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY L82586, dated March 11, 2005, is hereby revoked.

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

Robert F. Altneu for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.