

# Bureau of Customs and Border Protection

## *General Notices*

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

*Washington, DC, November 29, 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  
Office of Trade.*

### **19 CFR PART 177**

#### **PROPOSED REVOCATION OF RULING LETTERS AND TREATMENT RELATING TO TARIFF CLASSIFICATION OF AEROSOL DISPENSERS**

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

**ACTION:** Notice of proposed revocation of ruling letters and treatment relating to tariff classification of aerosol dispensers.

**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 intends to revoke two rulings relating to the classification of aerosol dispensers under the Harmonized Tariff Schedule of the United States (HTSUS), and to revoke any treatment CBP has previously accorded to substantially identical transactions. These articles are motor-operated aerosol dispensers, used

indoors and outdoors, for spraying fragrances and insecticides, imported without the aerosol can. CBP invites comments on the correctness of the proposed action.

**DATE:** Comments must be received on or before January 13, 2007.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations & Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9<sup>th</sup> Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

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

**SUPPLEMENTARY INFORMATION:**

**Background**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke two rulings relating to the tariff classification of aerosol dispensers. Although in this notice CBP is specifically referring to two rulings, HQ 957555 and NY 882294, this notice covers 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 listed. No further rulings have been identified. Any party who has received an interpretative ruling or decision (i.e., ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

In HQ 957555, dated January 30, 1995, a battery-operated mechanical aerosol dispenser, imported without the aerosol can and batteries, was held to be classifiable under a provision for electric motors and generators of an output not exceeding 37.5 W, other, in subheading 8501.10.40, HTSUS. This ruling was based on the belief that the mechanical components in the dispenser complemented the function of the electric motor. HQ 957555 is set forth as "Attachment A" to this document. In NY 882294, dated April 22, 1993, an automatic, motor-operated aerosol dispenser was held to be similarly classifiable. NY 882294 is set forth as "Attachment B" to this document. It is now CBP's position that these articles are classifiable as other parts of mechanical appliances for projecting, dispersing or spraying liquids or powders, in subheading 8424.90.90, HTSUS. Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke HQ 957555 and NY 882294, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis in HQ 968210 and HQ 968211, which are set forth as "Attachment C" and "Attachment D" to this document, respectively. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment it previously accorded to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

**DATED:** November 24, 2006

Gail A. Hamill for MYLES B. HARMON,  
*Director,*  
*Commercial and Trade Facilitation Division.*

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 957555  
January 30, 1995  
CLA-2 CO:R:C:M 957555 DWS  
CATEGORY: Classification  
TARIFF NO.: 8501.10.40

MR. JEFF MILLER  
AMREP, INC.  
*990 Industrial Park Drive  
Marietta, GA 30062*

RE: Revocation of NY 804604; Aerosol Dispenser; Explanatory Note  
85.01(I)(A); Electric Motors; HQs 950834 and 952500; NY 882294;  
8479.89.65

DEAR MR. MILLER:

This is in reference to NY 804604, issued to you on December 15, 1994, by the Area Director of Customs, New York Seaport, concerning the classification of an aerosol dispenser under the Harmonized Tariff Schedule of the United States (HTSUS). In the course of ruling on similar merchandise, we have determined that the holding in NY 804604 is incorrect.

FACTS:

The merchandise consists of an automatic metered aerosol dispenser which is a wall-mounted, battery-operated mechanical appliance used to activate an aerosol spray can at timed intervals. The dispenser, which measures approximately 9 inches x 3 1/2 inches x 3 1/2 inches, is comprised of a plastic cabinet with a side-hinged door containing an opening through which the spray is emitted. Inside the cabinet is a battery compartment, a compartment holding a standard aerosol spray can, a motorized gear and lever system, and a control board. The control board features "empty can" and "battery low" warning lights, as well as a timer setting which allows the unit to be set to initiate a spraying action every 7 1/2, 15, and 30 minutes. When the dispenser's switch is turned on, the motorized gear system begins to rotate, pressing down the lever on the aerosol spray valve and initiating the spraying action. The dispenser is imported with two screws, two hollow wall anchors, and decorative color strips used to match the cabinet color with the wall color. The dispenser is imported without the aerosol can and batteries.

The subheadings under consideration are as follows:

8479.89.65: [m]achines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter; parts thereof: [o]ther machines and mechanical appliances: [o]ther:

The 1995 general, column one rate of duty for goods classifiable under this provision is 3.9 percent ad valorem. We note that the 1994 rate was 4.2 percent ad valorem.

8501.10.40: [e]lectric motors and generators (excluding generating sets): [m]otors of an output not exceeding 37.5 W: [o]ther.

The 1995 general, column one rate of duty for goods classifiable under this provision is 6.2 percent ad valorem. We note that the 1994 rate was 6.6 ad valorem.

ISSUE:

Whether the aerosol dispenser is classifiable under subheading 8479.89.65, HTSUS, as an other mechanical function having an individual function, or under subheading 8501.10.40, HTSUS, as an other electric motor of an output not exceeding 37.5 W.

LAW AND ANALYSIS:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRI's). GRI 1 provides that classification is determined according to the terms of the headings and any relative section or chapter notes.

In NY 804604, it was held that the aerosol dispenser was classifiable under subheading 8479.89.65, HTSUS. However, before we can consider whether the merchandise is classifiable under that provision, we must first decide whether the dispenser is described under subheading 8501.10.40, HTSUS.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes, although not dispositive, are to be used to determine the proper interpretation of the HTSUS. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989). In part, Explanatory Note 85.01(I)(A) (p. 1334) states that:

[m]otors remain classified here even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools. The heading includes "outboard motors" for the propulsion of boats, in the form of a unit comprising an electric motor, shaft, propeller and a rudder.

If the motorized gear system was imported without the other components in the dispenser, it would be classifiable under subheading 8501.10.40, as the presence of the gear system would not change the classification of the motor. See HQ 952500, dated October 16, 1992. However, we must now determine whether the dispenser, containing the motorized gear system and the lever, control board, and timer setting, is described under subheading 8501.10.40, HTSUS.

In HQ 950834, dated March 6, 1992, it was stated that:

[t]he Explanatory Notes and the rulings interpreting heading 8501, HTSUS, make it clear that electric motors equipped with additional components, remain classifiable in this heading, even if those other components are "quite substantial". However, it is equally clear that heading 8501, HTSUS, does not encompass every assembly which includes an electric motor. When confronted with an assembly incorporating a motor which includes additional components **other than** those listed in Explanatory Note 85.01, HTSUS, the rulings described above provide the following guidelines—an electric motor is classifiable under heading 8501, HTSUS, even when imported with additional components (other than those listed in Explanatory Note 85.01) if:

- (1) those additional components **complement the function of the motor** [HQ 083955];
- (2) those additional components **are devices which motors are commonly equipped** [HQ 087909];
- (3) those additional components **serve merely to transmit the power the motors produce** [HQ 950557].

It is our position that the dispenser is described under subheading 8501.10.40, HTSUS, as an other electric motor. The primary function of the dispenser is to initiate spraying action. The component which performs this function is the motorized gear system. The timer setting and the control board perform functions complementary, or auxiliary, to the motorized gear system. The timer setting determines when the motorized gear system will operate, and the control board merely alerts a user when the system is not operating properly or effectively. The lever serves to transmit the power the motorized gear system produces by pressing down on the aerosol can's spray valve. See NY 882294, dated April 22, 1993, which held a similar automatic aerosol dispenser to be classifiable under subheading 8501.10.40, HTSUS.

In part, GRI 3(a) states that:

[t]he heading which provides the most specific description shall be preferred to headings providing a more general description . . .

We find that heading 8501, HTSUS, is more specific than the general provision of heading 8479, HTSUS. Goods are only classifiable under heading 8479, HTSUS, when they are not specified elsewhere under chapter 84, HTSUS; whereas heading 8501, HTSUS, specifically names electric motors. Therefore, the aerosol dispenser is classifiable under subheading 8501.10.40, HTSUS.

**HOLDING:**

The aerosol dispenser is classifiable under subheading 8501.10.40, HTSUS, as an other electric motor of an output not exceeding 37.5 W.

**EFFECT ON OTHER RULINGS:**

NY 804604 is revoked pursuant to 19 CFR 177.9(d)(1). This revocation will not be applied retroactively to NY 804604 [19 CFR 177.9(d)(2)] and will not, therefore, affect past transactions under that ruling. However, for the purposes of future transactions in merchandise of this type, NY 804604 will not be valid precedent. We recognize that pending transactions may be adversely affected by this revocation, in that current contracts for importations arriving at a port subsequent to this decision will be classified pursuant to it. If such a situation arises, you may apply for relief from the binding effects of this decision as may be warranted by the circumstances. Please be advised that in some instances involving import restraints, such relief may require separate approvals from other government agencies.

Marvin M. Amernick for JOHN DURANT,  
*Director,*  
*Commercial Rulings Division.*

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY 882294  
April 22, 1993  
CLA-2-85:S:N:N3:113 882294  
CATEGORY: Classification  
TARIFF NO.: 8501.10.4060

MR. ARNOLD ZLOTNIK  
AIR-SCENT INTERNATIONAL  
215 8th Street  
Braddock, PA 15104

RE: The tariff classification of automatic aerosol dispensers from Taiwan

DEAR MR. ZLOTNIK:

In your letter dated January 26, 1993, you requested a tariff classification ruling.

The merchandise is an automatic aerosol dispenser. It has a plastic housing, may be wall-mounted, and contains a battery operated motor. To activate it, the cover is removed, and an aerosol can, containing air freshener or insecticide is placed in the unit. At preset intervals, the motor moves, and its shaft presses down on the aerosol button, spraying the contents. The motor operates at 0.3 watts.

The applicable subheading for the automatic aerosol dispenser will be 8501.10.4060, Harmonized Tariff Schedule of the United States (HTS), which provides for electric motors of an output not exceeding 37.5 watts, of under 18.65 watts, other, DC. The rate of duty will be 6.6 percent ad valorem.

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

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

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

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 968210  
CLA-2 RR:CTF:TCM 968210 JAS  
CATEGORY: Classification  
TARIFF NO.: 8424.90.9080

MR. JEFF MILLER  
AMREP, INC.  
990 Industrial Park Drive  
Marietta, GA 30062

RE: Aerosol Dispenser; HQ 957555 Revoked

DEAR MR. MILLER:

In HQ 957555, issued to you on January 30, 1995, an aerosol dispenser, as hereafter described, was found to be classifiable as electric motors and generators of an output of under 18.65 W, in subheading 8501.10.40, Harmonized Tariff Schedule of the United States (HTSUS). We have reconsidered this classification and now believe it is incorrect.

FACTS:

The merchandise was described in HQ 957555 as consisting of an automatic metered aerosol dispenser which is a wall-mounted, battery-operated mechanical appliance used to activate an aerosol spray can at timed intervals. The dispenser, which measures approximately 9 inches x 3 1/2 inches x 3 1/2 inches, is comprised of a plastic cabinet with a side-hinged door containing an opening through which a liquid spray is emitted. Inside the cabinet is a battery compartment, a compartment holding a standard aerosol spray can, a motorized gear and lever system, and a control board. The control board features "empty can" and "battery low" warning lights, as well as a timer setting which allows the unit to be set to initiate a spraying action every 7 1/2, 15, and 30 minutes. When the dispenser's switch is turned on, the motorized gear system begins to rotate, pressing down the lever on the aerosol spray valve and initiating the spraying action. The dispenser is imported with two screws, two hollow wall anchors, and decorative color strips used to match the cabinet color with the wall color. The dispenser is imported without the aerosol can and batteries.

The HTSUS provisions under consideration are as follows:

8424 Mechanical appliances . . . for projecting, dispersing or spraying liquids or powders; . . . ; parts thereof:

Other appliances:

8424.89 Other:

8424.89.70 Other

8424.90 Parts:

8424.90.90 Other

\* \* \* \*

8501 Electric motors and generators (excluding generating sets):

8501.10                   Motors of an output not exceeding 37.5 W:  
                                  Of under 18.65 W:  
  
8501.10.40                Other

ISSUE:

Whether the aerosol dispenser, as described, imported without the aerosol can and batteries, constitutes an electric motor of heading 8501 or parts of mechanical spraying appliances of heading 8424.

LAW AND ANALYSIS:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding and, therefore not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are thus useful in ascertaining the classification of merchandise under the Harmonized System. U.S. Customs and Border Protection believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Pursuant to Section XVI, Note 2, HTSUS, parts which are goods included in any of the headings of chapter 84 or 85 are in all cases to be classified in their respective headings. See Note 2(a). Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading are to be classified with the machines of that kind. See Note 2(b). *Nidec Corporation v. United States*, 861 F. Supp. 136, aff'd, 68 F. 3d 1333 (CAFC 1995). Thus, if the aerosol dispenser is found to qualify as an electric motor for tariff purposes, Note 2(a) requires that it be classified in heading 8501. If not, Note 2(b) requires that the aerosol dispenser be classified with the machine or machines with which it is solely or principally used.

The classification in HQ 957555 was predicated on the 8501 ENs which state, in part, that motors remain classified [in heading 8501] even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools. The ENs continue by including in heading 8501 "outboard motors" for the propulsion of boats, in the form of a unit comprising an electric motor, shaft, propeller and a rudder. Based on these ENs, heading 8501, HTSUS, has been broadly interpreted. For example, HQ 083955, dated July 10, 1989, stated that electric motors imported with additional components other than those listed in the 8501 ENs were intended to remain classifiable in heading 8501 provided the additional components complement the function of the motor. See also HQ 950834, dated March 6, 1992, which cites HQ 083955 with approval.

HQ 957555 stated that the primary function of the aerosol dispenser was to initiate spraying action and that the component which performs this function is the motorized gear system. The remaining components were said to perform functions complementary or auxiliary to the motorized gear system. We now believe that this analysis is incorrect. The facts indicate that, when turned on, the motorized gear and lever system begins to rotate, pressing

down the lever on the aerosol spray valve and initiates the spraying action. In fact, even though the motorized gear and lever system may be involved in the sequence, it is the on/off switch that actually initiates the sequence. Therefore, while the gears and lever may complement the function of the motor there is no basis to conclude that the control board and incorporated timer setting does likewise. Noting Section XVI, Note 2(a), HTSUS, we conclude that the automatic battery-operated aerosol dispenser is not a good included in heading 8501.

A good may qualify as a "part" for tariff purposes if it satisfies a specific and integral need in the operation of the device with which it is used. *Mitsubishi Int'l v. United States*, 17 CIT 871, 829 F. Supp. 1387 (1993). A complete aerosol dispenser consisting of the described components, plus the actual aerosol spray can, would meet the terms of heading 8424 as a mechanical appliance for projecting, dispersing or spraying liquids or powders. The dispenser's function and manner of operation leads to the conclusion that it satisfies a specific and integral need in the operation of a complete aerosol can dispenser. Its unique design leads us to further conclude that it is solely or principally used with mechanical dispersing or spraying appliances of heading 8424, under the authority of Section XVI, Note 2(b), HTSUS.

**HOLDING:**

Under the authority of GRI 1 and Section XVI, Note 2(b), HTSUS, the automatic metered aerosol dispenser, as described, is provided for in heading 8424. It is classifiable in subheading 8424.90.9080, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), as other parts of mechanical appliances for projecting, dispersing, or spraying liquids or powders.

**EFFECT ON OTHER RULINGS:**

HQ 957555, dated January 30, 1995, is revoked.

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

## [ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY.  
 BUREAU OF CUSTOMS AND BORDER PROTECTION,  
 HQ 968211  
 CLA-2 RR:CTF:TCM 968211 JAS  
 CATEGORY: Classification  
 TARIFF NO.: 8424.90.9080

MR. ARNOLD ZLOTNIK  
 AIR-SCENT INTERNATIONAL  
 215 8<sup>th</sup> Street  
 Braddock, PA 15104

RE: Automatic Aerosol Dispenser; NY 882294 Revoked

DEAR MR. ZLOTNIK:

In NY 882294, which the Area Director, New York Seaport (now Director, National Commodity Specialist Division, U.S. Customs and Border Protection (CBP)), New York, issued to you on April 22, 1993, an automatic aerosol dispenser was found to be classifiable as an electric motor of an output not exceeding 37.5 watts, in subheading 8501.10.4060, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). We have reconsidered this classification and now believe that it is incorrect.

## FACTS:

NY 882294 described an automatic aerosol dispenser that may be wall-mounted, having a plastic housing and containing a battery-operated motor. To activate the device, the cover is removed, and an aerosol can, containing air freshener or insecticide is placed in the unit. At preset intervals, the motor moves, and its shaft presses down on the aerosol button, spraying the contents. The motor operates at 0.3 watts.

The HTSUS provisions under consideration are as follows:

8424 Mechanical appliances . . . for projecting, dispersing or spraying liquids or powders; . . . ; parts thereof:

Other appliances:

8424.89 Other:

8424.89.70 Other

8424.90 Parts:

8424.90.90 Other

\* \* \* \*

8501 Electric motors and generators (excluding generating sets):

8501.10 Motors of an output not exceeding 37.5 W:  
 Of under 18.65 W:

8501.10.40 Other

## ISSUE:

Whether the automatic aerosol dispenser is an electric motor of heading 8501 or part of a mechanical appliance for projecting, dispersing or spraying liquids or powders.

## LAW AND ANALYSIS:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

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

Pursuant to Section XVI, Note 2, HTSUS, parts which are goods included in any of the headings of chapter 84 or 85 are in all cases to be classified in their respective headings. See Note 2(a). Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading are to be classified with the machines of that kind. See Note 2(b). *Nidec Corporation v. United States*, 861 F. Supp. 136, aff'd, 68 F. 3d 1333 (CAFC 1995).

The 8501 ENs state, in part, that motors remain classified [in heading 8501] even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools. The ENs continue by including in heading 8501 "outboard motors" for the propulsion of boats, in the form of a unit comprising an electric motor, shaft, propeller and a rudder. Based on these ENs, heading 8501, HTSUS, has been broadly interpreted. For example, HQ 083955, dated July 10, 1989, stated that electric motors imported with additional components other than those listed in the 8501 ENs were intended to remain classifiable in heading 8501 provided the additional components complement the function of the motor. See also HQ 950834, dated March 6, 1992, which cites HQ 083955 with approval.

The classification expressed in NY 882294 was based on the belief that the components of the aerosol dispenser complemented the function of the motor. We now believe that this is incorrect. In devices of this kind, when the on/off switch is turned on, the motor presses a shaft down on the aerosol spray valve thus initiating the spraying action. Even though the motor and shaft may be involved in the sequence, it is the on/off switch that actually begins the sequence. Therefore, while the shaft may complement the function of the motor there is no basis to conclude that the other components of the dispenser do likewise.

For these reasons, we conclude that the automatic aerosol dispenser is not a good included in heading 8501 under Section XVI, Note 2(a), HTSUS. However, in respect of Note 2(b), a good may qualify as a "part" for tariff purposes if it satisfies a specific and integral need in the operation of the device with which it is used. *Mitsubishi Int'l v. United States*, 17 CIT 871, 829 F. Supp. 1387 (1993). A complete aerosol dispenser consisting of the described components plus the aerosol spray can would meet the terms of heading 8424 as a mechanical appliance for projecting, dispersing or spraying liquids or powders. The dispenser's function and manner of operation in this case leads to the conclusion that it satisfies a specific and integral need in the operation of a complete aerosol dispenser. Furthermore, its unique de-

sign leads us to conclude that it is solely or principally used with mechanical dispersing or spraying appliances of heading 8424, under the authority of Section XVI, Note 2(b), HTSUS.

**HOLDING:**

Under the authority of GRI 1 and Section XVI, Note 2(b), HTSUS, the automatic aerosol dispenser, as described, is provided for in heading 8424. It is classifiable in subheading 8424.90.9080, HTSUSA, as other parts of mechanical appliances for projecting, dispersing, or spraying liquids or powders.

**EFFECT ON OTHER RULINGS:**

NY 882294, dated April 22, 1993, is revoked.

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

┌

┐

└

┘