

U.S. Customs Service

General Notices

RETRACTION OF REVOCATION OR CANCELLATION NOTICE

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

ACTION: General Notice.

SUMMARY: The following Customs broker license numbers were erroneously included in a list of revoked or cancelled Customs broker licenses.

<i>Name</i>	<i>License</i>	<i>Port Name</i>
Craig International	13252	Cleveland
Virginia H. Venslovaitis	11779	Champlain
Robert J. Schott	05272	Washington

Customs broker licenses numbered 05272, 11779, and 13252 remain valid.

Dated: March 8, 2002.

BONNI G. TISCHLER,
Assistant Commissioner,
Office of Field Operations.

[Published in the Federal Register, March 29, 2002 (67 FR 15284)]

RETRACTION OF REVOCATION NOTICE

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

ACTION: General Notice.

SUMMARY: The following Customs broker license was erroneously included in a list of revoked Customs broker licenses.

<i>Name</i>	<i>License</i>	<i>Port Name</i>
Tisha Goss	16852	Cleveland

This Customs broker license, number 16852, remains valid.

Dated: March 8, 2002.

BONNI G. TISCHLER,
Assistant Commissioner,
Office of Field Operations.

[Published in the Federal Register, March 29, 2002 (67 FR 15284)]

 CANCELLATION OF CUSTOMS BROKER LICENSES

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

ACTION: Customs Broker License Cancellations.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930 as amended (19 USC 1641) and the Customs Regulations (19 CFR 111), the following Customs broker licenses are cancelled without prejudice. Because previous publication of some records cannot be readily verified, the records are now being published to ensure Customs compliance with administrative requirements.

<i>Name</i>	<i>License</i>	<i>Port Name</i>
Air-Sea Forwarders, Inc.	03659	San Francisco
Eric T. Buchanan	14452	Savannah
Burlington Northern Customs Brokerage	07064	Minneapolis
Carmichael International Service	05314	San Francisco
James W. Ghedi	07274	Dallas/Fort Worth
ICE Company, Inc.	06358	Dallas/Fort Worth
Karl Schroff & Associates	07698	Kansas City
Nations Customs Brokers, Inc.	16320	Miami
Robert J. Schott	06518	Baltimore

Some of these entities may continue to provide broker services under a different brokerage license number.

Dated: March 8, 2002.

BONNI G. TISCHLER,
Assistant Commissioner,
Office of Field Operations.

[Published in the Federal Register, March 29, 2002 (67 FR 15284)]

CANCELLATION OF CUSTOMS BROKER LICENSE
DUE TO DEATH OF THE LICENSE HOLDER

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

ACTION: Cancellation of License.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.53(g), the following individual Customs broker license has been cancelled due to death of the broker:

<i>Name</i>	<i>License</i>	<i>Port Name</i>
Benjamin J. Hernandez	09375	Seattle

Dated: March 8, 2002.

BONNI G. TISCHLER,
Assistant Commissioner,
Office of Field Operations.

[Published in the Federal Register, March 29, 2002 (67 FR 15285)]

NOTICE OF CANCELLATION OF CUSTOMS BROKER LICENSE

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

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930 as amended (19 USC 1641) and the Customs Regulations [19 CFR 111.51(a)], the following Customs broker license is canceled without prejudice.

<i>Name</i>	<i>License</i>	<i>Port Name</i>
Seino America, Inc	10930	Los Angeles

Dated: March 8, 2002.

BONNI G. TISCHLER,
Assistant Commissioner,
Office of Field Operations.

[Published in the Federal Register, March 29, 2002 (67 FR 15285)]

REVOCATION OF CUSTOMS BROKER LICENSES

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

ACTION: Customs Broker License Revocations.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930 as amended (19 USC 1641) and the Customs Regulations (19 CFR 111), the following Customs broker licenses are revoked. Because previous publication of some records cannot be readily verified, the records are now being published to ensure Customs compliance with administrative requirements.

<i>Name</i>	<i>License</i>	<i>Port Name</i>
Beer, Brian	11541	San Francisco
Brinkley, David H.	09042	Miami
Cohen, George M.	03467	New York
Davila, Jamie	06093	New York
Ramos, Jose A.	05284	Dallas/Fort Worth
Unimex Brokerage, Inc.	12585	El Paso

Dated: March 8, 2002.

BONNI G. TISCHLER,
Assistant Commissioner,
Office of Field Operations.

[Published in the Federal Register, March 29, 2002 (67 FR 15284)]

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, March 27, 2002.

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

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

MODIFICATION OF RULING LETTER AND REVOCATION OF
TREATMENT RELATING TO THE CLASSIFICATION OF
WOMAN'S UPPER BODY GARMENT

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

ACTION: Notice of modification of a ruling letter and revocation of treatment relating to the classification of a woman's upper body garment.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying a ruling letter relating to the tariff classification of a woman's upper body garment under the Harmonized Tariff Schedule of the United States (HTSUS), and revoking any treatment previously accorded by the Customs Service to substantially identical merchandise. Notice of proposed actions was published on October 31, 2001, in Volume 35, Number 44, of the CUSTOMS BULLETIN. No comments were received on the proposed modification.

DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after June 10, 2002.

FOR FURTHER INFORMATION CONTACT: Ann Segura Minardi, Textile Branch, and (202) 927-1009.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub.L.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the CUSTOMS BULLETIN on October 31, 2001, Vol. 35, No. 44, proposing to modify Customs New York Ruling (NY) G80103, dated August 28, 2000, pertaining to the tariff classification of a woman’s upper body garment. No comments were received in response to this notice.

In NY G80103, Customs ruled that a woman’s upper body garment identified as Style 0045 was classifiable in subheading 6212.10.9020, HTSUSA, in the provision for “Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted: Brassieres: Other: Other, Of man-made fibers“. Since the issuance of this ruling, Customs has reviewed the classification of this item and has determined that the cited ruling is in error. We have determined that this item is properly classifiable as a “corset” of man-made fibers under subheading 6212.30.0020, HTSUSA. The merchandise identified as Style 0045 is correctly 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.

As stated in the proposed notice, this modification covers any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should have advised the Customs Service during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs is revoking any treatment previously accorded by Customs to substantially identical transactions that is contrary to the position set forth in this notice. This treatment may, among other reasons, be the result of the import-

er's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States (HTSUS). Any person involved in substantially identical transactions should have advised Customs during the comment period. An importer's reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by this notice which was not identified in this notice, may raise the rebuttable presumption of lack of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this final notice.

Customs, pursuant to 19 U.S.C. 1625(c)(1), is modifying NY G80103 dated August 28, 2000, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letter HQ 964537 (see "Attachment" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by the Customs Service to substantially identical merchandise.

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

Dated: February 8, 2002.

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

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC, February 7, 2002.

CLA-2 RR:CR:TE
Category: Classification
Tariff No. 6114.30.1020 and 6212.30.0020

MR. GARTH PAULEY
SPECIALIST, INTIMATE APPAREL
LIMITED DISTRIBUTION SERVICES
*Seven Limited Parkway
Reynoldsburg, OH 43068*

Re: Request for reconsideration of classification and Modification of NY G80103: Two woman's upper body garments.

DEAR MR. PAULEY:

This is in response to a letter, dated September 14, 2000, on behalf of the Lane Bryant company, requesting reconsideration of Customs New York Ruling (NY) G80103 which classified woman's undergarments under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). Samples were submitted to this office for examination and

will be returned under separate cover per your request. We have reviewed this ruling and determined that the classification provided for merchandise identified as Style 0045 is incorrect. This ruling modifies NY G80103 by providing the correct classification for Style 0045.

Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)), notice of the proposed modification of NY G82728 was published on October 31, 2001, in the CUSTOMS BULLETIN, Volume 35, Number 44. No comments were received in response to the proposed notice.

Facts:

Style 5407 is a woman's upper body garment constructed of 79 percent nylon and 21 percent spandex paisley printed knit fabric. The front of the garment is comprised of 5 panels. The back is constructed of two panels with a back closure. The garment features shoulder straps with a rear slide adjustment. The front portion of the shoulder strap has been finished in ¾ inch wide matching paisley knit fabric. The back portion of each shoulder strap features ¾ inch wide elastic in matching solid color. The built-in brassiere is comprised of lightly padded cups of knit fabric and foam construction with each having a single center seam for shaping. The cups have been sewn into an elastic net (knit construction) fabric that forms the interior built-in shelf support of the garment. The lower portion of this built-in shelf is constructed with a 1 ¼ inch wide black elastic with scalloped edging and the tradename "realwear" embroidered in black and repeating at 3 inch intervals. A single piece of blue elastic (¾ inch wide) has been sewn to the inside of the paisley knit fabric strap. This soft blue elastic strip is sewn to the top inside edge of the garment in one continuous strip descending from the strap to under the arm and ending at the back seam closure. Strips of hook and eye closures run vertically along each back panel (8 ½ inches long). When fastened the hook and eye closures form a secure, non-gapping back seam composed of black knit edging strips sewn to the outside of the garment (1 ¼ inch wide by 8 ½ inches long). The bottom edge of the garment is slightly shaped so that the front center panel forms the longest panel. The same soft blue elastic used on the inside of the top edge has been secured to the inside of the entire bottom edge of the garment.

Style 0045 combines a woman's underwire brassiere with long shaped panels that descend to the waist. The garment consists of a total of eight panels which cover the torso. The front center panels are longer than the other panels resulting in a slightly shaped hemline at the lower edge of the garment. Six of the connecting seams on these panels contain a strip of boning. The front panels feature metal eyes running in vertical strips along the edge. A satin ribbon is laced through the metal eyes, in alternating fashion, to join the two front panels at the center of the garment. The front of the shoulder straps are comprised of two narrow strips of knit fabric joined to a matching ¾ inch wide elastic with rear slide adjustment. The brassiere cups are constructed of 91 percent nylon and 9 percent spandex knit satin-like fabric with seams running horizontally for shaping. The cups are lined with a knit fabric and also feature a horizontal seam. The two front center panels and two back panels are unlined and constructed of the same satin-like knit fabric used in the brassiere cups. The remaining four panels are constructed of a 60 percent nylon 40 percent spandex fishnet knit fabric and are lined with a knit fabric. Each back panel has been edged with hook and eye closures that run vertically (8 ½ inches long) to completely close the garment. A soft narrow elastic (½ inch wide) with scalloped edge has been sewn along the top edge of the four back panels and at the bottom edge of all eight panels.

In New York Ruling (NY) G80103, dated August 28, 2000, Style 5407 was classified in subheading 6114.30.1020, HTSUSA, which provides for "Other garments, knitted or crocheted: Of man-made fibers: Tops, Women's or girls". Style 0045 was classified in subheading 6212.10.9020, HTSUSA, in the provision for "Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted: Brassieres: Other: Other; Of man-made fibers".

You disagree with Customs classification of both styles. As such, you have asserted that Style 5407 has all the features normally associated with a support garment and brassiere and should be correctly classified under subheading 6212.10.5020, HTSUSA, in the provision for "Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted: Brassieres: Containing lace, net or embroidery: Other; Of man-made fibers." You further assert that Style 0045 has the essential characteristics of a corset and should be classified in subheading 6212.30.0020, HTSUSA, which is the provision for "Brassieres, girdles, corsets, braces, suspenders, garters and

similar articles and parts thereof, whether or not knitted or crocheted: Corsets, Of man-made fibers.”

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).

Style 5407

With respect to the article identified as Style 5407, and classified by Customs under subheading 6114.30.1020, HTSUSA, we note that this is a residual provision for knit garments which are not included more specifically in the preceding headings of Chapter 61. Thus, we must first consider whether or not there are any other relevant provisions in Chapter 61 that may be applicable to Style 5407.

Heading 6109, HTSUSA, provides for “T-shirts, singlets, tank tops and similar garments, knitted or crocheted.” The ENs to heading 6109 define “T-shirts” as lightweight knitted or crocheted garments of the vest type with long or short sleeves. The EN further states that the heading to 6109 also includes singlets and other vests which are classified in the heading without distinction between male and female wear.

The subject article is sleeveless, having narrow adjustable shoulder straps. Thus, it does not meet the definition of a “T-Shirt”. However, it is well established that certain underwear styled camisoles are classifiable as “singlets” under heading 6109, HTSUSA. Furthermore, it was noted in HQ 089280, dated May 13, 1991, that for classification within Ch. 61, undergarments are divided into two categories; those which are worn below the waist are provided for within the provisions of heading 6108, HTSUSA, and those which are worn above the waist, except for full slips, are indicated in the terms of the headings of 6109, HTSUSA. Thus, the article now at issue must be similar to a camisole, singlet, tank top or undershirt to be within the scope of heading 6109, HTSUSA.

In Headquarters Ruling (HQ) 086977, dated June 19, 1990, a silk knit camisole designed to be worn under a shirt and over a bra, was classified under subheading 6109.90.2020, HTSUSA. In defining a “singlet” as an undershirt, it was determined that a camisole is similar to an undershirt and therefore properly classified in heading 6109, HTSUSA. The following rulings also classified various women’s camisoles within heading 6109: HQ 089083, dated July 2, 1991; HQ 951246, dated June 24, 1992; HQ 951247, dated June 24, 1992; HQ 951809, dated September 8, 1992, HQ 952324, dated November 25, 1992; and HQ 959031, dated July 23, 1996. It is important to note, however, that none of the camisoles in the aforementioned rulings had a sewn-in brassiere and a back closure. Because the article has a sewn-in shelf style bra with hook and eye closures at the back, we do not believe it is similar to the “singlets” (camisoles) classifiable within heading 6109, HTSUSA.

The *Guidelines for the Reporting of Imported Products in Various Textile and Apparel Categories*, C.I.E. 13/88, November 23, 1988 (Textile Guidelines) sets forth features which would preclude a garment from consideration as a “tank top” under heading 6109, HTSUSA:

- 1) pockets, real or simulated, other than breast pockets;
- 2) any belt treatment including simple loops;
- 3) any type of front or back neck opening (zipper, button, or otherwise).

Although the Textile Guidelines specifically preclude any type of front or back “neck” opening, we presume this would also preclude those garments having openings that extend the entire length of the front or back. Such a neckline usually results in the absence of material at the neck because the front and/or back of a “tank top” may have a round, V, U,

boat, square or other type of neckline that drops below the nape of the neck. Since the subject garment, Style 5407, has a full back opening with hook and eye closure, it is our determination that the full length hook and eye back closure would prevent this article from classification as a "tank top" under heading 6109, HTSUSA.

In determining whether or not the subject garment (Style 5407) is a brassiere classifiable under subheading 6212.10.5020, HTSUSA, we note that the top is designed with a built-in bra to provide support and is constructed of a knit fabric that provides total coverage to the wearer. However, a garment of this construction would be extremely cumbersome as a brassiere. The top itself is designed with five seamed panels that descend from top to bottom and completely cover the torso with a substantial opaque knit fabric. Although the seams connecting these panels create a snug fit, such detailing may prove bulky under a close-fitting top. Furthermore, this top has been constructed with two layers of fabric, *i.e.*, a shelf bra and the exterior portion of the top.

Therefore, it is Customs determination that this garment, Style 5407, is not a brassiere. This decision is supported by HQ 950364, dated January 17, 1992, in which a sleeveless pullover with 1 inch shoulder straps, made of fine knit cotton, U-shaped neckline with a burnt-out lace insert, and extending below the waist, was classified as a "nonunderwear" tank top under subheading 6109.10.0060, HTSUSA. In reaching this decision, Customs applied the Textile Guidelines which specifically state that "the term 'underwear' refers to garments which are ordinarily worn under other garments and are not exposed to view when the wearer is conventionally dressed for appearance in public indoors or out-of-doors."

It is important to note that the garment identified as Style 5407, is designed and intended to be marketed with coordinating lounging pants, camisoles and oversize shirts that are described by the importer as "sleepwear" garments. These garments are constructed of the same fabric/colors as the subject top. In addition, bras and panties are marketed in fabrics and colors that match Style 5407.

We have assessed the subject top in conjunction with the coordinating pants, camisole and oversized shirt, and have determined that it would be better suited as loungewear (outerwear) than sleepwear. In *Mast Industries v. United States*, 9 CIT 549, 552 (1985), *aff'd*, 786 F.2d 1144 (1986), the court noted the definition of "nightwear" as "garments to be worn to bed." In the subject case, Style 5407 has a hook and eye closure along the back and sewn-in shelf bra that would render this garment uncomfortable as sleepwear. If the subject top is paired with the coordinating lounging pants and/or long oversize shirt, it could be used as loungewear. However, it is our understanding that the top is imported separately from the coordinating pants/oversize shirt. Therefore, it would not be classifiable under heading 6104, HTSUSA, as a loungewear "ensemble" because it is not entered with a garment designed to cover the lower part of the body (*see* EN 6104).

The next relevant provision is heading 6106, HTSUSA, which provides for women's blouses, shirts and shirt-blouses, knitted or crocheted. Once again, the Textile Guidelines provide that where a women's garment has excessively revealing arm or neck openings, it will be excluded from consideration as a shirt or blouse and considered a top. Thus, it is Customs determination that the garment identified as Style 5407 is a knit top which is not included more specifically in the preceding headings of Chapter 61 and is properly classifiable as an "Other" knitted garment of man-made fibers under subheading 6114.30.1020, HTSUSA.

In view of the foregoing, we affirm NY G80103, dated August 28, 2000, which classified Style 5407 in subheading 6114.30.1020, HTSUSA, as "Other garments, knitted or crocheted: Of man-made fibers: Tops, Women's or girls".

Style 0045

The second garment is identified as Style 0045 and consists of an underwire bra with panels that descend to the waist, adjustable straps of less than 1 inch, a hook and eye back closure, and front closure laced with a satin ribbon. 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, whalebone 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 body supporting brassiere (underwire at the cups), adjustable straps, supportive panels that shape and cover the torso and extend below the waist, six “stays” (or boning) which connect the panels, a “lacing” style closure in the front, and a hook/eye style closure in the back. As such, it is most similar to a “corset” which is further supported by the definitions presented in the following lexicographic sources:

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.

Based on these definitions, the “corset” features a combination of body supporting elements that lift the bustline, diminish the waistline, and provide shaping to the torso. The undergarment now in question has center front and rear panels that are constructed of 91 percent nylon and 9 percent spandex knit fabric. The four side panels are constructed of 60 percent nylon and 40 percent spandex fishnet knit fabric. The construction and fabric content provide exceptional body support to the torso. Further, the subject garment shares all of the same features provided in the above definitions of the “corset.” In view of the foregoing, we have determined that the subject article is a “corset” and specifically provided for under heading 6212, HTSUSA.

In view of the foregoing, the article identified as Style 0045 is properly classifiable as a “corset” of man-made fibers under subheading 6212.30.0020, HTSUSA.

Holding:

NY G80103 is hereby modified.

The merchandise identified as Style 5407 is correctly classified in subheading 6114.30.1020, HTSUSA, as “Other garments, knitted or crocheted: Of man-made fibers: Tops, Women’s or girls”. The general column one duty rate is 32.7 percent *ad valorem*. The textile category is 639.

The merchandise identified as Style 0045 is correctly 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.” The general column one duty rate is 24 percent *ad valorem*. The textile category is 649.

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

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

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

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

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

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

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

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying a ruling letter pertaining to the tariff classification of maintenance tool sets under the Harmonized Tariff Schedule of the United States ("HTSUS"), and revoking any treatment previously accorded by Customs to substantially identical transactions. Notice of the proposed actions was published in the CUSTOMS BULLETIN on February 13, 2002. 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 June 10, 2002.

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

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), a notice was published in the CUSTOMS BULLETIN on

February 13, 2002, proposing to revoke HQ 964478, dated November 16, 2001, a ruling letter pertaining to the tariff classification of certain maintenance tool sets. 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 which have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised Customs during the comment period.

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

Pursuant to 19 U.S.C. 1625(c)(1), Customs is modifying HQ 964478 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 965404. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by the Customs Service to substantially identical transactions. HQ 965404 is set forth as the attachment to this document.

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

Dated: March 20, 2002.

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

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, March 20, 2002.
CLA-2 RR:CR:GC 965404 GOB
Category: Classification
Tariff No. 8206.00.00 and 8513.10.20

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

Re: Maintenance tool set; Modification of HQ 964478.

DEAR MR. LANE:

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

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 DD 815332, as described below, was published in the CUSTOMS BULLETIN on February 13, 2002. No comments were received in response to the notice.

Facts:

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

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

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

Issue:

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

Law and Analysis:

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

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

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

After careful consideration, we find that the subject tool set is described in subheading 8206.00.00, HTSUS, in that it meets the terms of the subheading, as well as the EN. In this regard, we determine that the items in the tool set which are not themselves described in headings 8202 through 8205 (see above) do not change the essen-

tial character of the subject good, which is a tool set containing tools of two or more of headings 8202 through 8205. The items within the tool set which are not described in headings 8202 through 8205 serve to assist in the work performed by the tools of heading 8202 through 8205 and are auxiliary in nature to the central function of the tools of headings 8202 through 8205. The essential purpose of the tool set is to permit the user to engage in maintenance work via the use of the tools of headings 8202 through 8205.

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

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

This modification relates to the classification of the molded plastic tool case. EN 42.02 provides in pertinent part as follows: “This heading **does not cover:** * * * (f) Tool boxes or cases, not specially shaped or internally fitted to contain particular tools with or without their accessories (generally, **heading 39.26 or 73.26**.)” [Emphasis in original.] We believe that the case at issue here, which is not specially shaped or fitted, is within the scope of exclusion (f) in EN 42.02. We make this determination because the tools are imported in the case. Were the case imported separately, it would not be recognizable as a tool case. Accordingly, we find that the case is provided for in heading 3926, HTSUS, and is classified in subheading 3926.90.98, HTSUS, as: “Other articles of plastics * * *: * * * Other: * * * Other.”

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

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

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

Holding:

The maintenance tool set is classified in subheading 8206.00.00, HTSUS, as: “Tools of two or more of headings 8202 to 8205, put up in sets for retail sale.” The general rate of duty is: “The rate of duty applicable to that article in the set subject to the highest rate of duty,” i.e., the rate of duty for the electric torch which is classified in subheading 8513.10.20, HTSUS.

Effect on Other Rulings:

HQ 964478 is modified. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

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

PROPOSED MODIFICATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF MARBLE TROPHY BASES PREDRILLED
WITH A HOLE

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

ACTION: Notice of proposed modification of tariff classification ruling letter and treatment relating to the classification of marble trophy bases predrilled with a hole.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling concerning the tariff classification of marble trophy bases predrilled with a hole, under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATE: Comments must be received on or before May 10, 2002.

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

FOR FURTHER INFORMATION CONTACT: Allyson Mattanah, General Classification Branch, (202) 927-2326.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling pertaining to the tariff classification of marble trophy bases predrilled with a hole. Although in this notice Customs is specifically referring to New York Ruling Letter (NY) F88762, dated June 29, 2000, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this merchandise that may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise Customs during this notice period.

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

In NY F88762, Customs ruled that marble trophy bases predrilled with a hole were classified in subheading 6802.90.05, HTSUS, as marble slabs. NY F88762 is set forth as Attachment "A" to this document. It is now Customs position that this article was not correctly classified in subheading 6802.90.05, HTSUS, because it is worked beyond the condition specified for a slab.

Customs, pursuant to 19 U.S.C. 1625(c)(1), intends to modify NY F88762 and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed Headquarters Ruling Letter (HQ) 964806. (*see* Attachment "B" to this document). Additionally, pursuant to 19 U.S.C.

1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: March 22, 2002.

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

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, June 29, 2000.
CLA-2-71:RR:NC:SP:233 F88762
Category: Classification
Tariff No. 7117.19.9000,
6802.91.0500, and 3926.40.0000

MR. VINCENT CARIELLO
FREEMAN PRODUCTS
*Elmwood Corporate Park
487 Edward H. Ross Drive
Elmwood Park, NJ 07407-3118*

Re: The tariff classification of medals, marble bases and plastic figurines from China, Italy and Romania.

DEAR MR. CARIELLO:

In your letter dated June 19, 2000, on behalf of Trophy Holdings, Inc., dba Freeman Products, you requested a tariff classification ruling.

The submitted brochure depicts the following items to be imported:

1. Medals made of die cast metal, which are used as awards similar to the Olympic medal. The medals measure 2" in diameter and are typically hung from a neck ribbon. The country of origin will be China.
2. Marble bases for the assembly of trophies. The bases are rectangular blocks of varying sizes, usually polished and predrilled. The country of origin will be China, Italy and/or Romania.
3. Plastic figurines, which are screwed onto the top of the trophy. The country of origin will be China.

The applicable subheading for the medals will be 7117.19.9000, Harmonized Tariff Schedule of the United States (HTS), which provides for imitation jewelry: of base metal, whether or not plated with precious metal: other: other: other. The rate of duty will be 11% ad valorem.

The applicable subheading for the marble bases will be 6802.91.0500, HTS, which provides for worked monumental or building stone (except for slate) and articles thereof other than goods of heading 6801: other: marble: slabs. The rate of duty will be 2.5% ad valorem.

The applicable subheading for the plastic figurines will be 3926.40.0000, HTS, which provides for other articles of plastics and articles of other materials of headings 3901 to 3914: statuettes and other ornamental articles. The rate of duty will be 5.3% ad valorem.

Articles classifiable under subheading 6802.91.0500, HTS, which are products of Romania may be entitled to duty free treatment under the Generalized System of Preferences

(GSP) upon compliance with all applicable regulations. The GSP is subject to modification and periodic suspension, which may affect the status of your transaction at the time of entry for consumption or withdrawal from warehouse. To obtain current information on GSP, check the Customs Web site at www.customs.gov. At the Web site, click on "CEBB" then search for the term "GSP".

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lawrence Mushinske at 212-637-7061.

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

[ATTACHMENT B]

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

CLA-2 RR:CR:GC 964806AM
Category: Classification
Tariff No. 6802.91.15

MR. VINCENT CARIELLO
FREEMAN PRODUCTS
Elmwood Corporate Park
487 Edward H. Ross Dr.
Elmwood Park, NJ 07407-3118

Re: Marble trophy bases predrilled with a hole.

DEAR MR. CARIELLO:

This is in reference to New York Ruling Letter (NY) F88762 issued to you on June 29, 2000, by the Director, Customs National Commodity Specialist Division, concerning the classification, under the Harmonized Tariff Schedule of the United States, (HTSUS), of several items. One of the items classified in that ruling was marble trophy bases predrilled with a hole. This ruling modifies NY F88762 with respect to the classification of marble trophy bases predrilled with a hole.

Facts:

Customs Laboratory Report NY20010780, dated June 28, 2001, states the following: "the sample is an off white with grey spots texture surface polished stone base. It measures approximately 12 cm X 6.5 cm x 1.93 cm thick. It has two holes 0.8 cm in diameter. It is composed of non-agglomerated marble."

Issue:

What is the classification of marble trophy bases predrilled with a hole?

Law and Analysis:

Merchandise imported into the U.S. is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context that requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in order. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms

of those subheadings, any related subheading notes and *mutatis mutandis*, to the GRIs. In interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. See, T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

There is no question that heading 6802, HTSUS, is the correct heading for classification of the instant merchandise. At GRI 6, the following subheadings are relevant to the classification of this product:

6802	Worked monumental or building stone (except slate) and articles thereof, other than goods of heading 6801; mosaic cubes and the like, of natural stone (including slate), whether or not on a backing; artificially colored granules, chippings and powder, of natural stone (including slate): Other monumental or building stone and articles thereof, simply cut or sawn, with a flat or even surface:
6802.91	Marble, travertine and alabaster: Marble:
6802.91.05	Slabs
6802.91.15	Other

Additional U.S. Note 1, Chapter 68, HTSUS, states, in pertinent part, the following: “[F]or the purposes of heading 6802, the term “slabs” embraces flat stone pieces, not over 5.1 cm in thickness, having a facial area of 25.8 cm² or more, the edges of which have not been beveled, rounded or otherwise processed except such processing as may be needed to facilitate installation as tiling or veneering in building construction.”

The only reference to “slabs” in heading 6802 is in subheading 6802.91.05, in which marble in the form of “slabs” is distinguished from marble in other forms. The purpose of Additional U.S. Note 1, Chapter 68, is clearly to distinguish between marble in subheadings 6802.91.05 and 6802.91.15 on the basis of the degree of working or processing to which the articles have been subjected.

Here, the slabs have been further worked by being cut with a hole. Hence, they are “other” than marble slabs. Furthermore, slabs not predrilled with a hole but beveled more than 3/32 of an inch are also precluded from subheading 6802.91.05 under Additional U.S. note 1 to Chapter 68. See HQ 951047, dated September 17, 1992.

Holding:

Marble trophy bases predrilled with a hole are classified in subheading 6802.91.15, HTSUS, as “[W]orked monumental or building stone (except slate) and articles thereof, other than goods of heading 6801; mosaic cubes and the like, of natural stone (including slate), whether or not on a backing; artificially colored granules, chippings and powder, of natural stone (including slate): [O]ther monumental or building stone and articles thereof, simply cut or sawn, with a flat or even surface: [M]arble, travertine and alabaster: [M]arble: [O]ther.”

Effect on Other Rulings:

NY F88762 is modified with respect to the classification of marble trophy bases predrilled with a hole as described in this ruling letter.

JOHN DURANT,
Director,
Commercial Rulings Division.

PROPOSED MODIFICATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO TARIFF
CLASSIFICATION OF DIGITAL SOUND PROCESSORS

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

ACTION: Notice of proposed modification of ruling letter and treatment relating to tariff classification of digital sound processors.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of digital sound processors under the Harmonized Tariff Schedule of the United States ("HTSUS"). Similarly, Customs proposes to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before May 10, 2002.

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

FOR FURTHER INFORMATION CONTACT: Tom Peter Beris, General Classification Branch, (202) 927-1726.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of digital sound processors. Although in this notice Customs is specifically referring to one ruling, NY C85943, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise Customs during this notice period.

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

In NY C85943, dated April 27, 1998, (Attachment A), Customs classified a digital sound processor (Model SH-AC500D) under subheading 8525.20.9080, HTSUS, which provides for transmission apparatus for radiotelephony, radiotelegraphy, radiobroadcasting, or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras; still image video cameras or other video camera recorders: transmission apparatus incorporating reception apparatus: other: other.

It is now Customs position that the digital sound processor is properly classifiable under subheading 8543.89.9695, HTSUS, which provides for electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: other machines and apparatus: other: other: other: other.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to modify NY C85943 and any other ruling not specifically identified to the extent that it reflects the proper classification of the digital sound processor pursuant to the analysis set forth in proposed HQ 965324 (*see* "Attachment

B" to this document). All other classifications in NY C85943 remain unaffected. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

Dated: March 25, 2002.

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

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, April 27, 1998.
CLA-2-85:RR:NC:1:108 C85943
Category: Classification
Tariff No. 8525.20.9080 and 8527.39.0020

MR. JAMES SHAW
PANASONIC LOGISTICS COMPANY
*2 Panasonic Way
Secaucus, NJ 07094*

Re: The tariff classification of a Digital Surround Processor and a Home Theater Receiver from Japan.

DEAR MR. SHAW:

In your letter dated March 31, 1998 you requested a tariff classification ruling.

The items are a Digital Surround Processor (Model SH-AC500D) and a Home Theater Receiver (Model SA-AX720). These items will be both sold separately and together as a set.

The Digital Surround Processor (Model SH-AC500D) decodes the sound from either a DVD Player, DSS or Direct TV. It then passes the sound to the Home Theater Receiver in complete synchronization with the movie.

The Home Theater Receiver (Model SA-AX720) delivers the sound to each of the systems speakers. It also controls the type of input, sound level, bass, treble and balance of the sound.

The applicable subheading for the Surround Processor (Model SH-AC500D) will be 8525.20.9080, Harmonized Tariff Schedule of the United States (HTS), which provides for Transmission apparatus for radiotelephony, radiotelegraphy, radiobroadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras; still image video cameras or other video camera recorders; transmission apparatus incorporating reception apparatus: other: other. The rate of duty will be free.

The applicable subheading for the Home Theater Receiver (Model SA-AX720) and the combined items sold as a set, will be 8527.39.0020, Harmonized Tariff Schedule of the United States (HTS), which provides for Reception apparatus for radiotelephony, radiotelegraphy or radiobroadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: other radio broadcast receivers, including apparatus capable of receiving also radiotelephony or radiotelegraphy: other: without speakers. The rate of duty will be 3.6 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Michael Contino at 212-466-5672.

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

[ATTACHMENT B]

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

CLA-2 RR:CR:GC 965324 TPB
Category: Classification
Tariff No. 8543.89.9695

MR. JAMES SHAW
PANASONIC LOGISTICS COMPANY
2 Panasonic Way
Secaucus, NJ 07094

Re: Digital Sound Processor; NY C85943 Modified.

DEAR MR. SHAW:

This is in reference to NY C85943, dated April 27, 1998, issued to you by the Director, National Commodity Specialist Division ("NCSD") in response to your letter dated March 31, 1998, requesting classification of a digital sound processor under the Harmonized Tariff Schedule of the United States ("HTSUS").

In NY C85943, two articles were classified. One, a digital sound processor (Model SH-AC500D) was classified under subheading 8525.20.9080, HTSUS, which provides for transmission apparatus for radiotelephony, radiotelegraphy, radiobroadcasting, or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras; still image video cameras or other video camera recorders: transmission apparatus incorporating reception apparatus: other: other. We have had an opportunity to review classification of that article, and for the reasons stated below, find that it is inconsistent with the requirements of that heading. This ruling modifies NY C85943 to the extent noted.

Facts:

The imported merchandise is described as a Digital Surround Processor (Model SH-AC500D) and a Home Theater Receiver (Model SA-AX720). These individual components would be sold both separately and together as a set.

The Digital Sound Processor takes a digital bitstream from an input, in this case, either a DVD player, DSS or Direct TV, and decodes it. Decoded sound is then passed to the Home Theater Receiver via a wire in complete synchronization with the movie.

Issue:

What is the classification of the digital sound processor, model SH-AC500D?

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 may then be applied.

The HTSUS provisions under consideration are as follows:

- 8525 Transmission apparatus for radiotelephony, radiotelegraphy, radiobroadcasting, or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras; still image video cameras or other video camera recorders.
- 8543 Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter.

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.

The EN to 85.25(B) reads, in pertinent part, as follows:

- (B) The apparatus for radio-broadcasting falling in this group must be for the transmission of signals by means of electro-magnetic waves transmitted through the ether without any line connection. *Emphasis added.*

The digital sound processor at issue does not transmit signals through the ether, but rather through a wire, which is expressly excluded by the EN. Therefore, the SH-AC500D cannot be classified under heading 8525, HTS.

Heading 8543, HTS, provides for electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter. Based upon the description provided for the merchandise, the digital signal processor does not fall within any other heading of Chapter 85, HTS, nor is it covered more specifically by a heading of any other chapter. Therefore, the digital sound processor is properly classified under subheading 8543.89.9695, HTSUS, which provides for electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: other machines and apparatus: other: other: other: other: other.

Holding:

For the reasons stated above, digital sound processor, model SH-AC500D, is classified under subheading 8543.89.9695, HTSUS, which provides for electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: other machines and apparatus: other: other: other: other: other.

Effect on Other Rulings:

NY C85943 is modified to the extent described above, i.e., the digital sound processor is classified under subheading 8543, HTS. All other classification determinations in NY C85943 remain unaffected.

JOHN DURANT,
Director,
Commercial Rulings Division.

MODIFICATION OF RULING LETTER AND REVOCATION OF
TREATMENT RELATING TO TARIFF CLASSIFICATION OF
BUMPER PARTS

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

ACTION: Notice of modification of a ruling letter and revocation of treatment relating to the tariff classification of bumper parts.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying a ruling letter pertaining to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of bumper parts and revoking any treatment previously accorded by the Customs Service to substantially identical transactions. Notice of the proposed action was published in the CUSTOMS BULLETIN on February 20, 2002. No comments were received in response to this notice.

EFFECTIVE DATE: This modification is effective for merchandise entered or withdrawn from warehouse for consumption on or after June 10, 2002.

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

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published on February 20, 2002, in the CUSTOMS BULLETIN, Vol. 36, No. 8, proposing to modify ruling letter NY B89510, dated October 9, 1997, and revoke the tariff classification of bumper parts. No comments were received in response to this notice.

As stated in the proposed notice, this modification and revocation will cover any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should have advised Customs 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, Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States (HTSUS). Any person involved in substantially identical transactions should have advised Customs during this notice period. An importer's failure to have advised the Customs Service of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or their agents for importations of merchandise subsequent to the effective date of this final notice.

In NY B89510, dated October 9, 1997, in addition to other articles not herein relevant, Customs found that the Support Assembly (Part #894170-4181) was classified in subheading 8708.10.30, HTSUS, as parts and accessories of the motor vehicles of headings 8701 to 8705: bumpers and parts thereof: bumpers. Customs has reviewed the matter and determined that the correct classification of the Support Assembly is in subheading 8708.10.60, HTSUS, as Parts and accessories of the motor vehicles of headings 8701 to 8705: Bumpers and parts thereof: Parts of bumpers.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is modifying NY B89510 and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letter (HQ) 964662. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by the Customs Service to substantially identical transactions. HQ 964662, modifying NY 89510, is set forth as the "Attachment" to this document.

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

Dated: March 25, 2002.

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

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC, March 25, 2002.

CLA-2 RR:CR:GC 964662 KBR
Category: Classification
Tariff No. 8708.10.60

MR. EDWARD WOHR
SUBARU-ISUZU AUTOMOTIVE, INC.
5500 State Road 38 East
Lafayette, IN 47903

Re: Reconsideration of NY B89510; Bumper parts.

DEAR MR. WOHR:

This is in reconsideration of New York Ruling Letter (NY) B89510, issued to you by the Customs National Commodity Specialist Division, dated October 9, 1997, concerning the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of automotive parts from Japan. This ruling will concern only the sixth item in that ruling, the Support Assembly (Part #894170-4181). We have reviewed that prior ruling and have determined that the classification provided is incorrect.

Pursuant to section 625(c)(1), 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), a notice was published on February 20, 2002, in Vol. 36, No. 8 of the CUSTOMS BULLETIN, proposing to modify NY B89510. No comments were received in response to this notice. This ruling modifies NY B89510 by providing the correct classification for the bumper parts.

Facts:

The sixth item considered in NY B89510 was Support Assembly (Part #894170-4181). This is a piece of steel which is attached to the rear of a vehicle and the rear bumper of a vehicle. The purpose of this part is to stabilize a vehicle's rear bumper. The ruling classified the part in subheading 8708.10.30, HTSUS, which provides for Parts and accessories of the motor vehicles of headings 8701 to 8705: Bumpers and parts thereof: Bumpers.

Issue:

What is the classification of the support assembly?

Law and Analysis:

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

The HTSUS provisions under consideration are as follows:

8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
8708.10	Bumpers and parts thereof:
8708.10.30	Bumpers
8708.10.60	Parts of bumpers

In NY B89510, the support assembly part was classified as if it was the bumper of a vehicle rather than as a part for attaching and stabilizing the bumper to the vehicle. Customs has determined that this is incorrect. The support assembly is only a part of the bumper. Therefore, Customs finds that the correct classification for the support assembly (Part #894170-4181) is in subheading 8708.10.60, HTSUS, as parts and accessories of the motor vehicles of headings 8701 to 8705: bumpers and parts thereof: parts of bumpers.

Holding:

In accordance with the above discussion, the support assembly (Part #8894170-4181) is classified in subheading 8708.10.60, HTSUS, as parts and accessories of the motor vehicles of headings 8701 to 8705: bumpers and parts thereof: parts of bumpers.

Effect on Other Rulings:

NY B89510 dated October 9, 1997, is modified with respect to the sixth item, Support Assembly (Part #894170-4181) as set forth herein. The classification of the other articles is not affected by this ruling. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective sixty (60) days after its publication in the CUSTOMS BULLETIN.

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