

U.S. Customs Service

General Notices

PROPOSED COLLECTION; COMMENT REQUEST

VESSEL ENTRANCE OR CLEARANCE STATEMENT FORM

ACTION: Notice and request for comments.

SUMMARY: Customs published a document in the Federal Register on April 19, 2002, entitled “Proposed Collection; Comment Request; Master’s Oath on Entry of Vessel in Foreign Trade”, inviting comment on an information collection requirement. The document contained many errors, including that the particular information collection on which comments were being sought, the Customs Form (CF) 1300, is no longer called the “Master’s Oath on Entry of Vessel in Foreign Trade”. The CF 1300 is now called the “Vessel Entrance or Clearance Statement”. Accordingly, the document published on April 19, 2002, is withdrawn. This document, in which Customs invites the general public and other Federal agencies to comment on the information collection entitled “Vessel Entrance or Clearance Statement” replaces the April 19 document. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3502(c)(2)).

DATES: Written comments should be received on or before July 5, 2002, to be assured of consideration.

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

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

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 19, 2002, Customs published a document in the Federal Register (67 FR 19477) inviting the public to comment on an information collection entitled the “Master’s Oath on Entry of Vessel in Foreign

Trade". The document contained many errors, including that the particular information collection on which comments were being sought, the Customs Form (CF) 1300, is no longer called the "Master's Oath on Entry of Vessel in Foreign Trade". The CF 1300 is now called "the Vessel Entrance or Clearance Statement". This document replaces the April 19, 2002 document.

REQUEST FOR COMMENTS

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

Title: Vessel Entrance or Clearance Statement Form

OMB Number: 1515-0060

Form Number: Customs Form 1300

Abstract: This form is used by a master of a vessel to attest to the truthfulness of all other forms associated with the manifest.

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

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 12,000

Estimated Time Per Respondent: 5 minutes

Estimated Total Annual Burden Hours: 21,991

Estimated Total Annualized Cost on the Public: \$314,470

Dated: April 29, 2002.

TRACEY DENNING,
Information Services Group.

[Published in the Federal Register, May 6, 2002 (67 FR 30413)]

USE OR REPLACEMENT OF CONTINUOUS BONDS THAT
WERE DESTROYED IN NEW YORK

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public of the procedures that must be followed by importers to ensure continuous bond coverage on future import transactions in the case of continuous bonds maintained by Customs in New York that were destroyed in the terrorist attack on September 11, 2001.

DATE: A copy of a current bond must be provided to Customs, or a new bond must be filed with Customs, on or before June 12, 2002.

FOR FURTHER INFORMATION CONTACT:

For questions regarding operational issues: The Entry and Drawback Management Branch, Office of Field Operations (202-927-0360).

For inquiries about specific bonds: The Customs Bond Unit, Elizabeth, New Jersey (201-443-0234). A party making a telephonic inquiry regarding a specific bond should be prepared to provide its importer name and identification number.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Customs laws and regulations require the posting of a surety bond to secure Customs transactions involving specific types of activities (for example, the importation and entry of merchandise, the custody of imported merchandise, the arrival and clearance of conveyances). A Customs bond may be approved by Customs for a particular activity involving one individual Customs transaction (for example, a single entry bond) or may be approved by Customs as a continuous bond for a particular activity involving multiple Customs transactions (for example, a continuous importation and entry bond). A single transaction bond normally is approved by Customs when presented in connection with the individual transaction to which it relates and remains in effect only for purposes of that one transaction. An application for a continuous transaction bond normally is filed with, and approved by, Customs before all of the transactions to which it relates arise, and the approved bond is retained on file by Customs and remains in effect until terminated by the parties to the bond.

The terrorist attack on the World Trade Center in New York on September 11, 2001, resulted in the destruction of Customs bonds and other documents that were being stored at the Customs offices at 6 World Trade Center. The destroyed bonds and other documents included, but were not limited to, continuous bonds which were filed for approval at the New York Seaport (port code 1001) and at the New York Regional Port (port code 7200). In order to ensure uninterrupted bond coverage

and avoid the need to file an application for a new continuous bond, each party having a continuous bond of any type involving activity code 1 to 5 that has an effective date of September 11, 2001, or earlier and that was filed at either of the two ports referred to above and that remains in effect on the date of publication of this notice must, within 30 days of the date of publication of this notice, provide Customs with a copy of that bond together with the Customs bond number and copies of any riders to the bond. Failure to provide a copy of the bond within the prescribed 30 day period will cause Customs to refuse to accept a reference to the bond to guarantee future transactions. If a copy of the bond cannot be provided, the party must submit to Customs a new continuous bond application within the same 30-day period. For purposes of this notice, the term "party" refers to any individual or business association that prior to, or on or after, September 11, 2001, has engaged in activities secured by a continuous bond described above as having been destroyed on that date, either by virtue of being listed as a "Principal" on the bond or by virtue of being listed as a user in "Section III" on the bond.

The copy of the continuous bond or the new continuous bond application should be sent to either of the following addresses:

U.S. Customs Service
Attention: Bond Desk
1210 Corbin Street
Elizabeth, New Jersey 07201

or

U.S. Customs Service
Attention: Bond Desk
Bldg. 77
JFK Airport
Jamaica, New York 11430

Dated: May 7, 2002.

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

[Published in the Federal Register, May 13, 2002 (67 FR 32082)]

RECEIPT OF AN APPLICATION FOR
“LEVER-RULE” PROTECTION

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

ACTION: Notice of receipt of application for “Lever-Rule” protection.

SUMMARY: Pursuant to 19 CFR 133.2(f), this notice advises interested parties that Customs has received an application filed on behalf of Lladro USA, Inc. seeking “Lever-Rule” protection.

FOR FURTHER INFORMATION CONTACT: George F. McCray, Esq., Intellectual Property Rights Branch, Office of Regulations & Rulings, (202) 927-2387.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to 19 CFR 133.2(f), this notice advises interested parties that Customs has received an application filed on behalf of Lladro USA, Inc. seeking “Lever-Rule” protection. Protection is sought against importations of certain porcelain and ceramic vases, statuettes and figurines bearing the Lladro trademark (U.S. Patent & Trademark Office Registration No. 834,717; U.S. Customs Recordation No. TMK88-00383) in which the serial numbers have been altered or deleted.

Pursuant to 19 CFR 133.2(f), in the event that Customs determines that the subject products are physically and materially different from the products authorized for sale in the U.S. on the bases of the facts alleged, Customs will publish an additional notice in the CUSTOMS BULLETIN which indicates that the subject trademark will receive Lever-rule protection and to which specific products that protection will apply.

Dated: April 29, 2002.

JOANNE ROMAN STUMP, CHIEF,
Intellectual Property Rights Branch,
Office of Regulations and Rulings.

**DATES AND DRAFT AGENDA OF THE TWENTY-NINTH SESSION
OF THE HARMONIZED SYSTEM COMMITTEE OF THE WORLD
CUSTOMS ORGANIZATION**

AGENCIES: U.S. Customs Service, Department of the Treasury, and U.S. International Trade Commission.

ACTION: Publication of the dates and draft agenda for the twenty-ninth session of the Harmonized System Committee of the World Customs Organization.

SUMMARY: This notice sets forth the dates and draft agenda for the next session of the Harmonized System Committee of the World Customs Organization.

Date: May 7, 2002.

FOR FURTHER INFORMATION CONTACT: Myles B. Harmon, Director, International Agreements Staff, U.S. Customs Service (202-927-2255), or Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission (202-205-2592).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The United States is a contracting party to the International Convention on the Harmonized Commodity Description and Coding System (“Harmonized System Convention”). The Harmonized Commodity Description and Coding System (“Harmonized System”), an international nomenclature system, form the core of the U.S. tariff, the Harmonized Tariff Schedule of the United States. The Harmonized System Convention is under the jurisdiction of the World Customs Organization (established as the Customs Cooperation Council).

Article 6 of the Harmonized System Convention establishes a Harmonized System Committee (“HSC”). The HSC is composed of representatives from each of the contracting parties to the Harmonized System Convention. The HSC’s responsibilities include issuing classification decisions on the interpretation of the Harmonized System. Those decisions may take the form of published tariff classification opinions concerning the classification of an article under the Harmonized System or amendments to the Explanatory Notes to the Harmonized System. The HSC also considers amendments to the legal text of the Harmonized System. The HSC meets twice a year in Brussels, Belgium. The next session of the HSC will be the twenty-ninth, and it will be held from May 22-31, 2002.

In accordance with section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418), the Department of the Treasury, represented by the U.S. Customs Service, the Department of Commerce, represented by the Census Bureau, and the U.S. International Trade

Commission ("IT"), jointly represent the U.S. government at the sessions of the HSC. The Customs Service representative serves as the head of the delegation at the sessions of the HSC.

Set forth below is the draft agenda for the next session of the HSC. Copies of available agenda-item documents may be obtained from either the Customs Service or the ITC. Comments on agenda items may be directed to the above-listed individuals.

Dated: May 1, 2002.

MYLES B. HARMON,
Director, International Agreements Staff.
Office of Regulations & Rulings.

[Attachment]

Attachment

DRAFT AGENDA FOR THE TWENTY-NINTH
SESSION OF THE HARMONIZED SYSTEM COMMITTEE

Wednesday, May 22 (3 p.m.) to Friday, May 31, 2002

N.B.: Tuesday, May 21, 2002

10 a.m. – 6 p.m. Preessional Working Party (to examine the questions under Agenda Item VII)

Wednesday, May 22, 2002

9:30 a.m. – 11 a.m. Adoption of the Report of the Preessional Working Party

11:30 a.m. – 1 p.m. Adoption of the Report of the 25th Session of the Review Sub-Committee

I.

ADOPTION OF THE AGENDA

1. Draft Agenda	NC0512E2
2. Draft Timetable	NC0513B1

II.

REPORT BY THE SECRETARIAT

1. Position regarding Contracting Parties to the HS Convention and related matters	NC0514E1
2. Progress report on the implementation of the 2002 edition of the Harmonized System	NC0515E1
3. Report on the meeting of the Policy Commission (46th Session)	NR0209E1
4. Approval of decisions taken by the Harmonized System Committee at its 28th Session	NG0033E1 NC0516E1
5. Technical assistance activities of the Nomenclature and Classification Sub-Directorate	NC0518E1
6. Co-operation with other international organizations	NC0519E1
7. Co-operation with the Technical Committee on Rules of Origin	NC0520E1
8. New information provided on the WCO Web site	NC0521E1
9. Annual survey to determine the percentage of national revenue represented by Customs duties	NC0522E1
10. Survey on Free Trade Agreements	NC0523E1
11. Corrigendum to the Third Edition (2002) of the HS Explanatory Notes	NC0524E1
12. Other	

III.

GENERAL QUESTIONS

1. Proposed amendment of the Compendium of Classification Opinions ..	NC0525E1
2. Use of references to specific administrations in future reports of the Harmonized System Committee	NC0526E1
3. Establishment of a correlation between the Harmonized System and the WTO instruments and agreements	NC0527E1
4. How should the HS Committee deal with the classification of products that are no longer being manufactured but are still being traded internationally?	NC0528E1
5. Terms of reference and work plans for the HS Committee, its subcommittees and Working Party	NC0569E1

FURTHER STUDIES—Continued

6. Classification of certain acid-added clay products	NS0045E1 (SSC/17) NC0404E1 (HSC/27) NC0563E1
7. Possible amendments to the Explanatory Notes to Chapter 48 to clarify the classification of so-called “photo-copying” paper (Proposal by the Egyptian Administration)	NC0488E1 (HSC/28) NC0544E1 NC0577E1
8. Possible amendments to the Explanatory Notes with regard to various women’s and girls’ garments	NC0393E1 NC0413E1 NC0414E1 NC0418E1 NC0429E1 (HSC/27) NC0453E1 NC0503E1 (HSC/28) NC0572E1 NC0567E1
9. Classification of the “ Palm V™ ” presented as a set with cradle and installation software	NC0545E1
10. Classification of DVD drives and DVD players, including game players	NC0546E1
11. Possible amendments to the Explanatory Notes to clarify the classification of certain electronic memory modules (SIMMs and DIMMs)	NC0547E1
12. Possible amendments to the Explanatory Notes with a view to clarifying the classification of laundry type and industrial washing machines	NC0548E1 NC0549E1
13. Classification of flash electronic storage cards	NC0566E1
14. Classification of MP3 players	NC0550E1
15. Classification of safety seats for infants and toddlers	NC0423E1 (HSC/27) NC0551E1
16. Possible amendment of the Explanatory Notes to clarify the classification of foot-propelled scooters	NC0552E1
17. Classification of grounding rods	NC0307E1 (HSC/26) NC0582E1

IX.

NEW QUESTIONS

1. Possible amendments to the Explanatory Notes to headings 01.05 and 01.06 with regard to geese, ducks, wild geese and wild ducks (Proposal by the Norwegian Administration)	NC0564E1
2. Possible amendment of the Explanatory Note to heading 04.06 (Proposal by the EC)	NC0553E1
3. Classification of “ Mosstanol L ”	NC0555E1
4. Classification of a polyurethane resin in dimethyl formamide	NC0554E1
5. Possible amendment of Classification Opinion 3907.20/1 (Proposal by the Canadian Administration)	NC0565E1
6. Classification of certain panels of wood	NC0556E1
7. Classification of quilted, decorative pillow coverings (shams)	NC0559E1
8. Classification of certain stationery sets	NC0560E1
9. Classification of sliding doors for lifts (elevators)	NC0557E1

NEW QUESTIONS—Continued

10. Classification of “roller shoes”	NC0558E1
11. Possible contradiction between the Explanatory Notes to and legal text of heading 85.36	NC0561E1 NC0568B1
12. Classification of milk substitutes for coffee called “Vana®Blanca 35T” and “Non Dairy Creamer 23H”	NC0571E1
13. Classification of a machine called “NOACK 900 BLISTER PACKER” (NOACK 900)	NC0574E1
14. Classification of an electrostatic chuck and distinction between chucks of headings 84.66 and 85.05	NC0575E1
15. Classification of a “hydraulic salt/sand spreader” for clearing snow from roads	NC0576E1
16. Possible amendments to the Nomenclature regarding the classification of cameras	NC0578E1
17. Use of the terms “hygienic”, “sanitary” and “toilet”	NC0579E1
18. Classification of banknote substrates of plastics	NC0580E1
19. Classification of pumicing blocks in connection with the possible amendment of the Explanatory Note to heading 40.16 ..	NC0581E1

X.

OTHER BUSINESS

1. List of questions which might be examined at a future session	NC0573E1
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XI.

ELECTIONS

XII.

DATES OF NEXT SESSIONS

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, May 8, 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.

SANDRA L. BELL,
*Acting Assistant Commissioner,
Office of Regulations and Rulings.*

PROPOSED MODIFICATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO TARIFF
CLASSIFICATION OF A WELDED TUBE MILL

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

ACTION: Notice of proposed modification of a ruling letter and revocation of treatment relating to tariff classification of a welded tube mill.

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 a welded tube mill under the Harmonized Tariff Schedule of the United States ("HTSUS"). Customs also intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before June 21, 2002.

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

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

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

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

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of a welded tube mill. Although in this notice Customs is specifically referring to one ruling, NY 810478, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise Customs during this notice period.

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

In NY 810478 dated June 12, 1995, set forth as Attachment A to this document, Customs classified a welded tube mill in subheading 8515.31.00, HTSUS. It is now Customs position that the welded tube mill is classified in subheading 8462.21.80, HTSUS or subheading

8462.29.80, HTSUS, depending on whether or not it is numerically controlled. Proposed HQ 965296, modifying NY 810478, is set forth as Attachment B to this document.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to modify NY 810478 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 965296. 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: May 2, 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 12, 1995.
CLA-2-84:S:N:N1:104 810478
Category: Classification
Tariff No. 8515.31.0000 and 9801.00.1084

MR. JOHN EATON
BRISTOL METALS, INC.
P.O. Box 1589
Bristol, TN 37621-1589

Re: The tariff classification of a welded tube forming line from Germany.

DEAR MR. EATON:

In your letter dated May 9, 1995 you requested a tariff classification ruling. The equipment will be set up in-line to produce welded tube from flat strip as follows:

- (1) uncoiler
- (2) strip leveler
- (3) endwelder (TIG welder joins outgoing and incoming coil)
- (4) roll forming section
- (5) mechanical welding table
- (6) three cathodes TIG and plasma welding unit
- (7) seam tracking system
- (8) spray cooling section
- (9) tube seam grinding unit
- (10) inside bead rolling (flattens the weld on the inside)
- (11) final calibrating and tube straightening
- (12) roll out table
- (13) flying cut-off saw
- (14) complete drive and control cabinet
- (15) control data registration system
- (16) four tooling sets for four sizes of pipe, 10, 12, 14 and 16 inch.

The uncoiler is made in the U.S. and shipped to Germany. The balance of the line is made in Germany. All of the equipment will be imported in one shipment.

The applicable subheading for the welded tube forming line, except for the uncoiler, will be 8515.31.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for machines and apparatus for arc (including plasma arc) welding of metals: fully or partly automatic. The rate of duty will be 1.9 percent.

The applicable subheading for the uncoiler will be 9801.00.1084, HTS, which provides for products of the United States when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad. The rate of duty will be free.

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 B]

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

CLA-2 RR:CR:GC 965296 GOB
Category: Classification
Tariff No. 8462.21.80 and 8462.29.80

JOHN EATON
BRISTOL METALS, INC.
*P.O. Box 1589
Bristol, TN 37621-1589*

Re: Welded Tube Mill; NY 810478 Modified.

DEAR MR. EATON:

This letter is with respect to NY 810478, issued to you by the Area Director, U.S. Customs Service, New York Seaport, on June 12, 1995, which involved the classification, under the Harmonized Tariff Schedule of the United States ("HTSUS"), of a welded tube mill and an uncoiler. We have reviewed the classification set forth in NY 810478 and have determined that the classification set forth for the welded tube mill is incorrect. This ruling sets forth the correct classification.

Facts:

In NY 810478, the merchandise at issue was described as follows:

The equipment will be set up in-line to produce welded tube from flat strip as follows: (1) uncoiler; (2) strip leveler; (3) endwelder (TIG welder joins outgoing and incoming coil); (4) roll forming section; (5) mechanical welding table; (6) three cathodes TIG and plasma welding unit; (7) seam tracking system; (8) spray cooling section; (9) tube seam grinding unit; (10) inside bead rolling (flattens the weld on the inside); (11) final calibrating and tube straightening; (12) roll out table; (13) flying cut-off saw; (14) complete drive and control cabinet; (15) control data registration system; [and] (16) four tooling sets for four sizes of pipe, 10, 12, 14 and 16 inch.

In NY 810478, Customs classified the welded tube mill (with the exception of the uncoiler which was determined to be eligible for classification in subheading 9801.00.10, HTSUS) in subheading 8515.31.00, HTSUS.

Issue:

What is the classification under the HTSUS of the welded tube mill?

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.

The HTSUS provisions under consideration are as follows:

8455	Metal-rolling mills and rolls therefor; parts thereof:
8455.10.00	Tube mills
*	* * * * *
8462	* * * machine tools (including presses) for working metal by bending, folding, straightening, flattening, shearing, punching or notching * * *
	Bending, folding, straightening or flattening machines (including presses):
8462.21	Numerically controlled:
8462.21.80	Other
8462.29	Other:
8462.29.80	Other
*	* * * * *
8515	* * * magnetic pulse or plasma arc soldering, brazing or welding machines and apparatus, whether or not capable of cutting * * *
	Machines and apparatus for arc (including plasma arc) welding of metals:
8515.31.00	Fully or partly automatic
*	* * * * *

Note 4 to Section XVI, HTSUS (which includes Chapters 84 and 85, HTSUS) provides as follows:

Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or other devices) intended to contribute together to a clearly defined function covered by one of the headings in chapter 84 or chapter 85, then the whole falls to be classified in the heading appropriate to that function.

EN 84.55 provides in pertinent part as follows:

Rolling mills are metal working machines consisting essentially of a system of rollers between which the metal is passed; the metal is rolled out or shaped by the pressure exerted by the rollers, and at the same time the rolling modifies the structure of the metal and improves its quality * * *

* * * Other roller machines (e.g., for gumming metal foil on to a paper support) (**heading 84.20**), bending, folding, straightening or flattening machines (**heading 84.62**) are not regarded as rolling mills in the sense described above and are therefore **excluded** from this heading.

Rolling mills are of various types according to the particular rolling operations for which they are designed, viz.:

(A) Rolling out to reduce the thickness with a corresponding increase in length (e.g., in the rolling of ingots into blooms, billets or slabs; rolling of slabs into sheet, strip, etc.).

(B) Rolling of blooms, billets, etc., to form a particular cross-section (e.g., in the production of bars, rods, angles, shapes, sections, girders, railway rails).

(C) Rolling tubes.

(D) Rolling of wheel blanks or wheel rim blanks (e.g., to shape the flanges of railway wheels). [All emphasis in original.]

EN 84.62 provides in pertinent part as follows:

The heading covers certain machine tools, listed in the heading text, which work by changing the shape or form of metal or metal carbides.

* * * * *

The heading includes:

* * * * *

(2) **Bending machines.** These include machines for working flat products (sheets, plates and strips) which, by passing the products through three or four sets of rollers, give them a cylindrical curve * * * or else a conical shape * * *; machines for working non-flat products (bars, rods, angles, shapes, sections, tubes). These machines work either by means of forming rollers, by press bending, or, for tubes (and, in particular, oil pipes), by drawing their ends while the main section is held by a fixed cylinder. [Emphasis in original.]

HSC Decision

In HSC NC0319E1 (See Annex H/11 to Doc. NC0340E2; HSC/26/Nov. 2000), the Harmonized System Committee of the World Customs Organization “agreed unanimously with the conclusions of the United States and of the Secretariat to classify the machinery [tube mill machinery, described below] at issue in heading 84.62, rather than in heading 84.55.” The HSC had determined that only headings 8455 and 8462 merited consideration (i.e., heading 8515 did not merit consideration). In the *Compendium of Classification Opinions* (p. 34E), the HSC classified the following machinery in subheading 8462.21 or 8462.29 (depending upon whether or not it is numerically controlled):

Welded tube mill machinery presented without welding equipment, used to process coiled metal strip into tubular forms. The machinery consists of the following components: an edge trimmer; breakdown and forming rolls; idler vertical closing rolls and fin pass rolls. [Emphasis in original.]

As we stated in T.D. 89–80, decisions in the *Compendium of Classification Opinions* should be treated in the same manner as the EN’s, i.e., while neither legally binding nor dispositive, they provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. T.D. 89–80 further states that EN’s and decisions in the *Compendium of Classification Opinions* “should receive considerable weight.”

A welded tube mill essentially takes coiled metal strip, passes it through a series of bending rolls which gradually form it into a cylindrical tube, welds the seam to close the tube, sizes the welded tube, and cuts it off to the desired length. The merchandise at issue here is a complete welded tube mill.

With respect to the applicability of heading 8455, HTSUS, we note the exclusion from heading 8455, HTSUS, in EN 84.55, excerpted above, of “* * * bending, folding, straightening and flattening machines (heading **84.62**) * * *” The subject welded tube mill is essentially a metal forming or bending machine which would exclude it from heading 8455, HTSUS. Further, we find that the welded tube mill is not a rolling mill described in EN 84.55, excerpted above (see (A) through (D)). Additionally, EN 84.55 provides several specific examples (not excerpted above) of the rolling mills of the type referred to in (C) and (D). Welded tube mills are not included in these specific examples. With respect to the applicability of heading 8515, HTSUS, we note that the welding operation is a comparatively minor component of the tube mill.

We find that the welded tube mill consists of several components which are intended to contribute together to the clearly defined function of forming the metal. The components are either separate or interconnected by devices within the meaning of Note 4 to Section XVI, HTSUS. Therefore, by Note 4 to Section XVI, HTSUS, we conclude that the function of the welded tube mill is essentially a metal forming operation which involves a bending of the metal so as to impart a cylindrical curve to the metal sheet to form a tube. Accordingly, we find that the welded tube mill is described in heading 8462, HTSUS. See EN 84.62, excerpted above. If it is numerically controlled, it is classified in subheading 8462.21.80, HTSUS, as: “* * * machine tools (including presses) for working metal by bending, folding, straightening, flattening, shearing, punching or notching * * *: Bending, folding, straightening or flattening machines (including presses): Numerically controlled: * * * Other.” If it is not numerically controlled, it is classified in subheading 8462.29.80, HTSUS, as: “* * * machine tools (including presses) for working metal by bending, fold-

ing, straightening, flattening, shearing, punching or notching * * *: Bending, folding, straightening or flattening machines (including presses): * * * Other: * * * Other.”

Our determination is consistent with the decision of the Harmonized System Committee described above. Also, see HQ 965198 dated May 1, 2002 for a similar determination.

Holding:

The welded tube mill is described in heading 8462, HTSUS, as: “* * * machine tools (including presses) for working metal by bending, folding, straightening, flattening, shearing, punching or notching * * *” If it is numerically controlled it is classified in subheading 8462.21.80, HTSUS. If it is not numerically controlled it is classified in subheading 8462.29.80, HTSUS.

Effect on Other Rulings:

NY 810478 is modified.

JOHN DURANT,
Director,
Commercial Rulings Division.

REVOCATION OF RULING LETTERS AND TREATMENT
RELATING TO TARIFF CLASSIFICATION OF A SNO-CONE
MAKER

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

ACTION: Notice of revocation of ruling letters and treatment relating to tariff classification of a sno-cone maker.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended, (19 U.S.C. 1625(c)), this notice advises interested parties that Customs is revoking two ruling letters pertaining to the tariff classification of a sno-cone maker under the Harmonized Tariff Schedule of the United States (HTSUS). Customs is also revoking any treatment previously accorded by Customs to substantially identical transactions. A notice was published on April 3, 2002, in Vol. 36, No. 14, of the CUSTOMS BULLETIN, proposing to revoke NY 843670 and B85633, and to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Comments were invited on the correctness of the proposed action. No comments were received.

EFFECTIVE DATE: This actions is effective for merchandise entered or withdrawn from warehouse for consumption on or after July 22, 2002.

FOR FURTHER INFORMATION CONTACT: John G. Black, General Classification Branch, (202) 927-1317.

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 that 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 on April 3, 2002, in Vol. 36, No. 14, of the CUSTOMS BULLETIN, proposing to revoke two ruling letters pertaining to the tariff classification of a sno-cone maker. Although in this notice Customs is specifically referring to New York Ruling Letters (NY) 843670, dated August 1, 1989, and NY D85633, dated December 11, 1998, this notice covers any rulings on this merchandise that may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., 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 of the United States (HTSUS). 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 this final notice.

In NY 843670, dated August 1, 1989, and in NY D85633, dated December 11, 1998, Customs classified a sno-cone maker under subheading

8210.00.00, HTSUS, which provides for: hand-operated mechanical appliances, weighing 10 kg. or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof.

Since the issuance of these rulings, Customs has reexamined the competing tariff provisions and has determined that the original classification is in error. The products are food preparation articles limited in use, marketed and sold as toys, and providing manipulative play and role-play for young children. As such, they are classified in subheading 9503.90.0045, HTSUS, as other toys. Although both provisions describe the goods, Note 1(1) to Section XV, HTSUS, which includes chapter 82, excludes from the section articles that are classifiable in chapter 95.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is revoking NY 843670, NY D85633 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 965507 and HQ 965508, set forth as Attachments A and B of this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions.

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

Dated: May 8, 2002.

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

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC, May 8, 2002.
CLA-2 RR:CR:GC 965507JGB
Category: Classification
Tariff No. 9503.90.00

MR. NED MARSHAK
SHARRETT, PALEY, CARTER & BLAUVELT, P.C.
67 Broad Street
New York, NY 10004

Re: NY 843670 revoked; "Ice Busters sno-cone" maker.

DEAR MR. MARSHAK:

This letter is to inform you that Customs has reconsidered New York Ruling Letter (NY) 843670, issued to you August 1, 1989, on behalf of K-Mart, concerning the classification of a sno-cone machine under the Harmonized Tariff Schedule of the United States (HTSUS). After a review of that ruling, it has been determined that the classification of the sno-cone machine in heading 8210, HTSUS, was incorrect. For the reasons that follow, this ruling revokes NY 843670.

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 April 3, 2002, in Vol. 36, No. 14 of the CUSTOMS BULLETIN, proposing to revoke NY 843670 and to revoke the treatment pertaining to sno-cone makers. No comments were received in response to the notice.

Facts:

The merchandise is identified as “Ice Busters”, Code No. 04-25-36, described as a machine with metal ice shaver, 1 package of soft drink mix, 2 disposable cups, a plastic ice scoop, and instructions to make “sno-cone” at home with any soft drink mix.

Issue:

Whether the “Ice Busters” sno-cone machine is classified in heading 8210, HTSUS, which provides for hand-operated mechanical appliances, weighing 10 kg. or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof, or in subheading 9503.90.00, HTSUS, other toys.

Law and Analysis:

Classification under the Harmonized Tariff Schedule of the United States Annotated (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.

In interpreting the HTSUS, the Explanatory Notes (ENs) to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, may be used. The ENs, although not dispositive or legally binding, facilitate classification under the HTSUS by offering guidance in understanding the scope of the headings. Customs believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

The HTSUS provisions under consideration for the classification of the sno-cone machine are as follows:

- 8210: Hand-operated mechanical appliances, weighing 10 kg. or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof
- 9503: Other toys; reduced-size “scale” models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof

This article is described by both headings. GRI 3 provides, in pertinent part, “When, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows: (a) The heading which provides the most specific description shall be preferred to headings providing a more general description.” However, under the terms of GRI 1, “any relative section or chapter notes” must be considered before applying the GRI’s beyond GRI 1. Heading 8210, HTSUS, falls into Section XV Note 1(l) to Section XV excludes “Articles of Chapter 95 (for example, toys, games, sports equipment).” Therefore, if the product meets the standards of heading 9503, HTSUS, it cannot be classified in heading 8210, HTSUS.

Although Customs does not have any description of the product beyond the initial ruling, the product appears to be of the kind that are limited use, food preparation articles, marketed and sold as toys, and providing manipulative play and role-play for young children. The inclusion of the soft drink mix, 2 disposable cups, and the plastic ice scoop, suggest both the limited use and the low-volume production of the article, typical for amusement activities for young children. In short, this product could not be confused with a “real” sno-cone maker that would typically have an electric motor and be designed to produce scores of sno-cones in a day. The ENs to heading 9503 state that “certain toys (e.g., electric irons, sewing machines, musical instruments, etc.) may be capable of a limited ‘use,’; but they are generally distinguishable by their size and limited capacity from real sewing machines, etc.” Because of the limited use, and the other factors indicated, *supra*, the article is classifiable in subheading 9503.90, HTSUS, as an other toy.

Because classification in chapter 82 is precluded by Note 1(l) to Section XV, it is not pertinent to discuss classification of this article in heading 8210.

This decision is in accord with Headquarters Ruling Letter (HQ) 961906, dated July 2, 1999, which classifies a similar product, the Snoopy Snow Cone Machine in subheading 9503.90, HTSUS.

Holding:

The "Ice Busters sno-cone maker is classifiable under subheading 9503.90, HTSUS, as an other toy.

NY 843670 is hereby REVOKED. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

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

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC, May 8, 2002.
CLA-2 RR:CR:GC 965508JGB
Category: Classification
Tariff No. 9503.90.00

MR. LARRY ORDET
SANDLER, TRAVIS, AND ROSENBERG, P.A.
5200 Blue Lagoon Drive, Suite 600
Miami, FL 33126

Re: NY D84633 revoked; "Mr. Snowman Sno-Cone" maker.

DEAR MR. ORDET:

This letter is to inform you that Customs has reconsidered New York Ruling Letter (NY) D84633, issued to Mr. Juan Dominguez, on December 11, 1998, on behalf of Wal-Mart Stores, Inc., concerning the classification of a sno-cone machine under the Harmonized Tariff Schedule of the United States (HTSUS). After a review of that ruling, it has been determined that the classification of the sno-cone machine in heading 8210, HTSUS, was incorrect. For the reasons that follow, this ruling revokes NY D84633.

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 April 3, 2002, in Vol. 36, No. 14 of the CUSTOMS BULLETIN, proposing to revoke NY D84633 and to revoke the treatment pertaining to sno-cone makers. No comments were received in response to the notice.

Facts:

The merchandise is identified as "Mr. Snowman Sno-Cone" maker, item #7119, described as a machine used by children to make flavored shaved ice. The tope of the sno-cone maker is a plastic snowman that also serves as a tool to press the ice cubes against the ice to be shaved. Removing the snowman reveals an open plastic chute. At the bottom of the chute are four small metal blades mounted on a plastic disk. Turning a plastic handle rotates the blades and shaves the ice. The ice shavings then fall into an attached plastic container. Included with the Sno-Cone Maker are 2 disposable cups, 2 plastic spoons, 1 package of soft drink mix, and 1 plastic syrup applicator in the shape of a snowman.

Issue:

Whether the "Mr. Snowman Sno-Cone" maker is classified in heading 8210, HTSUS, which provides for hand-operated mechanical appliances, weighing 10 kg. or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof, or in subheading 9503.90.00, HTSUS, other toys.

Law and Analysis:

Classification under the Harmonized Tariff Schedule of the United States Annotated (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.

In interpreting the HTSUS, the Explanatory Notes (ENs) to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, may be used. The ENs, although not dispositive or legally binding, facilitate classification under the HTSUS by offering guidance in understanding the scope of the headings. Customs believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

The HTSUS provisions under consideration for the classification of the sno-cone maker are as follows:

- 8210: Hand-operated mechanical appliances, weighing 10 kg. or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof
- 9503: Other toys; reduced-size "scale" models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof

This article is described by both headings. GRI 3 provides, in pertinent part, "When, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows: (a) The heading which provides the most specific description shall be preferred to headings providing a more general description." However, under the terms of GRI 1, "any relative section or chapter notes" must be considered before applying the GRI's beyond GRI 1. Heading 8210, HTSUS, falls into Section XV. Note 1(l) to Section XV excludes "Articles of Chapter 95 (for example, toys, games, sports equipment)." Therefore, if the product meets the standards of heading 9503, HTSUS, it cannot be classified in heading 8210, HTSUS.

An examination of the sample, provided in connection with another matter before Customs, demonstrates that the product appears to be of the kind that are limited use, food preparation articles, marketed and sold as toys, and providing manipulative play and role-play for young children. The articles included with the set, such as 2 disposable cups, and the plastic spoons, suggest both the limited use and the low-volume sno-cone production of the article, typical for amusement activities for young children. In short, this product could not be confused with a "real" sno-cone maker that would typically have an electric motor and be designed to produce scores of sno-cones in a day. The ENs to heading 9503 state that "certain toys (e.g., electric irons, sewing machines, musical instruments, etc.) may be capable of a limited 'use,'; but they are generally distinguishable by their size and limited capacity from real sewing machines, etc." Because of the limited use, and the other factors indicated, *supra*, the article is classifiable in subheading 9503.90, HTSUS, as an other toy.

Because classification in chapter 82 is precluded by Note 1(l) to Section XV, it is not pertinent to discuss classification of this article in heading 8210.

This decision is in accord with Headquarters Ruling Letter (HQ) 961906, dated July 2, 1999, which classifies a similar product, the Snoopy Snow Cone Machine in subheading 9503.90, HTSUS.

Holding:

The "Mr. Snowman Sno-Cone" maker is classifiable under subheading 9503.90, HTSUS, as an other toy.

NY D85633 is hereby REVOKED. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

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