

U.S. Customs and Border Protection



19 CFR Part 12
[CBP Dec. 12–13]

RIN 1515–AD90

EXTENSION OF IMPORT RESTRICTIONS ON ARCHAEOLOGICAL OBJECTS AND ECCLESIASTICAL AND RITUAL ETHNOLOGICAL MATERIALS FROM CYPRUS

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

ACTION: Final rule.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on Pre-Classical and Classical archaeological objects and Byzantine ecclesiastical and ritual ethnological materials from Cyprus. These restrictions, which were last extended by CBP Dec. 07–52, are due to expire on July 16, 2012, unless extended. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined to extend the bilateral Agreement between the Republic of Cyprus and the United States to continue the imposition of import restrictions on cultural property from Cyprus. The Designated List of cultural property described in CBP Dec. 07–52 is revised in this document to reflect that the types of ecclesiastical and ritual ethnological articles dating from the Byzantine period previously listed on the CBP Dec. 07–52 Designated List as protected are now protected also if dating from the Post-Byzantine period (c. 1500 A.D. to 1850 A.D.) The revised Designated List also clarifies that certain mosaics of stone and wall hangings (specifically, to include images of Saints among images of Christ, Archangels, and the Apostles) are covered under the import restrictions published today. The import restrictions imposed on the archaeological and ethnological materials covered under the Agreement will remain in effect for a 5-year period, and the CBP regulations are being amended accordingly. These restrictions are being extended pursuant to determina-

tions of the State Department under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

DATES: *Effective Date:* July 16, 2012.

FOR FURTHER INFORMATION CONTACT: For legal aspects, George F. McCray, Esq., Chief, Cargo Security, Carriers and Immigration Branch, Regulations and Rulings, Office of International Trade, (202) 325-0082. For operational aspects, Virginia McPherson, Interagency Requirements Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6563.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 UNESCO Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (hereafter, the Cultural Property Implementation Act or the Act) (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*), signatory nations (State Parties) may enter into bilateral or multilateral agreements to impose import restrictions on eligible archaeological and ethnological materials under procedures and requirements prescribed by the Act. Under the Act and applicable CBP regulations (19 CFR 12.104g), the restrictions are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States (19 U.S.C. 2602(b)). This period may be extended for additional periods, each such period not to exceed five years, where it is determined that the factors justifying the initial agreement still pertain and no cause for suspension of the agreement exists (19 U.S.C. 2602(e); 19 CFR 12.104g(a)).

In certain limited circumstances, the Cultural Property Implementation Act authorizes the imposition of restrictions on an emergency basis upon the request of a State Party (19 U.S.C. 2603(c)(1)). Under the Act and applicable CBP regulations (19 CFR 12.104g(b)), emergency restrictions are effective for no more than five years from the date of the State Party's request and may be extended for three years where it is determined that the emergency condition continues to apply with respect to the covered materials (19 U.S.C. 2603(c)(3)).

On April 12, 1999, under the authority of the Cultural Property Implementation Act, the former U.S. Customs Service published

Treasury Decision (T.D.) 99–35 in the **Federal Register** (64 FR 17529) imposing emergency import restrictions on certain Byzantine ecclesiastical and ritual ethnological materials from Cyprus and accordingly amending 19 CFR 12.104g(b) pertaining to emergency import restrictions. These restrictions were effective for a period of 5 years from September 4, 1998, the date the Republic of Cyprus made the request for emergency protection. On August 29, 2003, these restrictions were extended, by publication of CBP Dec. 03–25 in the **Federal Register** (68 FR 51903), for an additional 3-year period, to September 4, 2006.

In a separate action, on July 16, 2002, the United States entered into a bilateral Agreement with the Republic of Cyprus concerning the imposition of import restrictions on certain archaeological materials of Cyprus representing the Pre-Classical and Classical periods of its cultural heritage (the 2002 Agreement).¹ On July 19, 2002, the former United States Customs Service published T.D. 02–37 in the **Federal Register** (67 FR 47447), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of archaeological materials covered by the restrictions. These restrictions were to be effective through July 16, 2007.

On August 17, 2006, the Republic of Cyprus and the United States amended the 2002 Agreement (covering the Pre-Classical and Classical archaeological materials) to include the list of Byzantine ecclesiastical and ritual ethnological materials that had been (and, at that time, were still) protected pursuant to the emergency action described above. The amendment of the 2002 Agreement to cover both the subject archaeological materials and the subject ethnological materials was reflected in CBP Dec. 06–22, which was published in the **Federal Register** (71 FR 51724) on August 31, 2006. CBP Dec. 06–22 contains the list of Byzantine ecclesiastical and ritual ethnological materials from Cyprus previously protected pursuant to emergency action and announced that import restrictions, as of August 31, 2006, were imposed on this cultural property pursuant to the amended Agreement (19 U.S.C. 2603(c)(4)). Thus, as of that date, the restrictions covering both the archaeological materials and the ethnological materials described in CBP Dec. 06–22 were set to be effective through July 16, 2007. (The amended Agreement was subsequently extended by the Parties, effective on July 16, 2007.)

On July 13, 2007, CBP published CBP Dec. 07–52 in the **Federal Register** (72 FR 38470) which further extended the import restrictions to July 16, 2012. The Designated List was published with the Decision.

¹ Formally, the Agreement is a Memorandum of Understanding, but the term Agreement is used in this document.

On October 18, 2011, the Department of State received a request by the Republic of Cyprus to extend the amended Agreement and to extend the historical timeframe to protect ecclesiastical and ritual ethnological materials of the Post-Byzantine period, c. 1500 A.D. to 1850 A.D. On June 15, 2012, after the Department of State proposed to so extend the amended Agreement and reviewed the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, State Department, determined that the cultural heritage of Cyprus continues to be in jeopardy from pillage of certain archaeological objects and certain ethnological materials and made the necessary determination to extend the import restrictions for an additional five-year period to July 16, 2017. Diplomatic notes have been exchanged reflecting the extension of the restrictions, as described in this document and as applicable to the revised Designated List set forth in this document, for a five-year period.

Thus, CBP is amending 19 CFR 12.104g(a) accordingly. Importation of such materials from Cyprus will be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

In this document, the Designated List of articles that was published in CBP Dec. 07–52 is also amended to extend the historical timeframe of the restricted ecclesiastical and ritual ethnological materials to include the Post-Byzantine period, c. 1500 A.D. to 1850 A.D. In addition, the section of the Designated List pertaining to the covered ethnological materials has been revised to clarify coverage of certain mosaics of stone and wall hangings (specifically, to include images of Saints among images of Christ, Archangels, and the Apostles). The articles described in the Designated List set forth below are protected pursuant to the amended Agreement. It is noted that there are no revisions to the section of the Designated List pertaining to covered archaeological objects. It is reprinted as a convenience.

The Designated List of Pre-Classical and Classical Period Archaeological Objects and Ecclesiastical and Ritual Ethnological Materials, and accompanying image database, may also be found at the following Internet Web site address: <http://exchanges.state.gov/heritage/culprop/pefact/html>, under “III. Categories of Objects Subject to Import Restriction,” by clicking on “*Designated List*” and on “*Cyprus Section of the Image Database*.”

List of Archaeological Objects From Cyprus Representing Pre-Classical and Classical Periods Ranging in Date From Approximately the 8th Millennium B.C. to Approximately 330 A.D.

I. Ceramic

A. Vessels

1. Neolithic and Chalcolithic (c. 7500–2300 B.C.)—Bowls and jars, including spouted vessels. Varieties include Combed ware, Black Lustrous ware, Red Lustrous ware, and Red-on-White painted ware. Approximately 10–24 cm in height.

2. Early Bronze Age (c. 2300–1850 B.C.)—Forms are hand-made and include bowls, jugs, juglets, jars, and specialized forms, such as askoi, pyxides, gourd-shape, multiple-body vessels, and vessels with figurines attached. Cut-away spouts, multiple spouts, basket handles, and round bases commonly occur. Incised, punctured, molded, and applied ornament, as well as polishing and slip, are included in the range of decorative techniques. Approximately 13–60 cm in height.

3. Middle Bronze Age (c. 1850–1550 B.C.)—Forms are hand-made and include bowls, jugs, juglets, jars, zoomorphic askoi, bottles, amphorae, and amphoriskoi. Some have multiple spouts and basket or ribbon handles. Decorative techniques include red and brown paint, incised or applied decoration, and polishing. Varieties include Red Polished ware, White Painted ware, Black Slip ware, Red Slip ware, and Red-on-Black ware. Approximately 4–25 cm in height.

4. Late Bronze Age (c. 1550–1050 B.C.)—Forms include bowls, jars, jugs and juglets, tankards, rhyta, bottles, kraters, alabastra, stemmed cups, cups, stirrup jars, amphorae, and amphoriskoi. A wide variety of spouts, handles, and bases are common. Zoomorphic vessels also occur. Decorative techniques include painted design in red or brown, polishing, and punctured or incised decoration. Varieties include White Slip, Base Ring ware, White Shaved ware, Red Lustrous ware, Bichrome Wheel-made ware, and Proto-White Painted ware. Some examples of local or imported Mycenaean Late Helladic III have also been found. Approximately 5–50 cm in height.

5. Cypro-Geometric I–III (c. 1050–750 B.C.)—Forms include bowls, jugs, juglets, jars, cups, skyphoi, amphorae, amphoriskos, and tripods. A variety of spouts, handles and base forms are used. Decorative techniques include paint in dark brown and red, ribbing, polish, and applied projections. Varieties include White Painted I–II wares, Black Slip I–II wares, Bichrome II–III wares, and Black-on-Red ware. Approximately 7–30 cm in height.

6. Cypro-Archaic I–II (c. 750–475 B.C.)—Forms include bowls, plates, jugs and juglets, cups, kraters, amphoriskoi, oinochoai, and amphorae. Many of the forms are painted with bands, lines, concentric circles, and other geometric and floral patterns. Animal designs

occur in the Free Field style. Molded decoration in the form of female figurines may also be applied. Red and dark brown paint is used on Bichrome ware. Black paint on a red polished surface is common on Black-on-Red ware. Other varieties include Bichrome Red, Polychromem Red, and Plain White. Approximately 12–45 cm in height.

7. Cypro-Classical I–II (c. 475–325 B.C.)—Forms include bowls, shallow dishes, jugs and juglets, oinochoai, and amphorae. The use of painted decoration in red and brown, as well as blue/green and black continues. Some vessels have molded female figurines applied. Decorative designs include floral and geometric patterns. Burnishing also occurs. Varieties include Polychrome Red, Black-on-Red, Polychrome Red, Stroke Burnished, and White Painted wares. Approximately 6–40 cm in height.

8. Hellenistic (c. 325 B.C.–50 B.C.)— Forms include bowls, dishes, cups, unguentaria, jugs and juglets, pyxides, and amphorae. Most of the ceramic vessels of the period are undecorated. Those that are decorated use red, brown, or white paint in simple geometric patterns. Ribbing is also a common decorative technique. Some floral patterns are also used. Varieties include Glazed Painted ware and Glazed ware. Imports include Megarian bowls. Approximately 5–25 cm in height.

9. Roman (c. 50 B.C.–330 A.D.)— Forms include bowls, dishes, cups, jugs and juglets, unguentaria, amphorae, and cooking pots. Decorative techniques include incision, embossing, molded decoration, grooved decoration, and paint. Varieties include Terra Sigillata and Glazed and Green Glazed wares. Approximately 5–55 cm in height.

B. Sculpture

1. Terracotta Figurines (Small Statuettes)

(a) Neolithic to Late Bronze Age (c. 7500–1050 B.C.)—Figurines are small, hand-made, and schematic in form. Most represent female figures, often standing and sometimes seated and giving birth or cradling an infant. Features and attributes are marked with incisions or paint. Figurines occur in Red-on-White ware, Red Polished ware, Red-Drab Polished ware, and Base Ring ware. Approximately 10–25 cm in height.

(b) Cypro-Geometric to Cypro-Archaic (c. 1050–475 B.C.)—Figurines show a greater diversity of form than earlier figurines. Female figurines are still common, but forms also include male horse-and-rider figurines; warrior figures; animals such as birds, bulls and pigs; tubular figurines; boat models; and human masks. In the Cypro-Archaic period, terra cotta models illustrate a variety of daily activi-

ties, including the process of making pottery and grinding grain. Other examples include musicians and men in chariots. Approximately 7–19 cm in height.

(c) Cypro-Classical to Roman (c. 475 B.C.–330 A.D.)—Figurines mirror the classical tradition of Greece and Roman. Types include draped women, nude youths, and winged figures. Approximately 9–20 cm in height.

2. Large Scale Terracotta Figurines—Dating to the Cypro-Archaic period (c. 750–475 B.C.), full figures about half life-size, are commonly found in sanctuaries. Illustrated examples include the head of a woman decorated with rosettes and a bearded male with spiral-decorated helmet. Approximately 50–150 cm in height.

3. Funerary Statuettes—Dating to the Cypro-Classical period (c. 475–325 B.C.), these illustrate both male and female figures draped, often seated, as expressions of mourning. Approximately 25–50 cm in height.

C. Inscriptions

Writing on clay is restricted to the Late Bronze Age (c. 1550–1050 B.C.). These occur on clay tablets, weights, and clay balls. Approximately 2–7 cm in height.

II. Stone

A. Vessels

Ground stone vessels occur from the Neolithic to the Hellenistic period (c. 7500–50 B.C.). Early vessels are from local hard stone. Most are bowl-shaped; some are trough-shaped with spouts and handles. Neolithic vessels often have incised or perforated decoration. Late Bronze Age vessels include amphoriskoi and kraters with handles. Sometimes these have incised decoration. Alabaster was also used for stone vessels in the Late Bronze Age and Hellenistic period. In the latter period, stone vessels are produced in the same shapes as ceramic vessels: amphorae, unguentaria, etc. Approximately 10–30 cm in height.

B. Sculpture

1. Neolithic to Chalcolithic (c. 7500–2300 B.C.)—Forms include small scale human heads, fiddle-shaped human figures, steatopygous female figures, cruciform idols with incised decoration, and animal figures. Andesite and limestone are commonly used in these periods. Approximately 5–30 cm in height.

2. Cypro-Classical (c. 475–325 B.C.)—Small scale to life-size human figures, whole and fragments, in limestone and marble, are similar to the Classical tradition in local styles. Examples include the limestone head of a youth in Neo-Cypriote style, votive female figures in Proto-Cypriot style, a kouros in Archaic Greek style, statues and statuettes representing Classical gods such as Zeus and Aphrodite, as well as portrait heads of the Greek and Roman periods. Approximately 10–200 cm in height.

C. Architectural Elements

Sculpted stone building elements occur from the 5th century B.C. through the 3rd century A.D. These include columns and column capitals, relief decoration, chancel panels, window frames, revetments, offering tables, coats of arms, and gargoyles.

D. Seals

Dating from the Neolithic (7500 B.C.) through 3rd century A.D., conical seals, scarabs, cylinder seals, and bread stamps are incised with geometric decoration, pictorial scenes, and inscriptions. Approximately 2–12 cm in height.

E. Amulets and Pendants

Dating to the Chalcolithic period, these pendants are made of picrolite and are oval or rectangular in form. Approximately 4–5 cm in length.

F. Inscriptions

Inscribed stone materials date from the 6th century B.C. through the 3rd century A.D. During the Cypro-Classical period, funerary stelae, and votive plaques were inscribed. From the 1st to the 3rd century A.D. funerary plaques, mosaic floors, and building plaques were inscribed.

G. Funerary Stelae (Uninscribed)

Funerary stelae date from the 6th century B.C. to the end of the Hellenistic period (c. 50 B.C.). Marble and other stone sculptural monuments have relief decoration of animals or human figures seated or standing. Stone coffins also have relief decoration. Approximately 50–155 cm in height.

H. Floor Mosaics

Floor mosaics date as early as the 4th century B.C. in domestic and public contexts and continue to be produced through the 3rd century A.D. Examples include the mosaics at Nea Paphos, Kourion, and Kouklia.

III. Metal

A. Copper/Bronze

1. Vessels—Dating from the Bronze Age (c. 2300 B.C.) through the 3rd century A.D., bronze vessel forms include bowls, cups, amphorae, jugs, juglets, pyxides, dippers, lamp stands, dishes, and plates. Approximately 4–30 cm in height.

2. Bronze Stands—Dating from the Late Bronze Age (c. 1550 B.C.) through the end of the Classical period (c. 325 B.C.), are bronze stands with animal decoration.

3. Sculpture—Dating from the Late Bronze Age (c. 1550) to the end of the Hellenistic period (c. 50 B.C.), small figural sculpture includes human forms with attached attributes such as spears or goblets, animal figures, animal- and vessel-shaped weights, and Classical representations of gods and mythological figures. Approximately 5–25 cm in height.

4. Personal Objects—Dating from the Early Bronze Age (c. 2300 B.C.) to the end of the Roman period (330 A.D.), forms include toggle pins, straight pins, fibulae, and mirrors.

B. Silver

1. Vessels—Dating from the Bronze Age (c. 2300 B.C.) through the end of the Roman period (330 A.D.), forms include bowls, dishes, coffee services, and ceremonial objects such as incense burners. These are often decorated with molded or incised geometric motifs or figural scenes.

2. Jewelry—Dating from the Cypro-Geometric period (c. 1050 B.C.) through the end of the Roman period (330 A.D.), forms include fibulae, rings, bracelets, and spoons.

C. Gold Jewelry

Gold jewelry has been found on Cyprus from the Early Bronze Age (c. 2300 B.C.) through the end of the Roman period (330 A.D.). Items include hair ornaments, bands, frontlets, pectorals, earrings, necklaces, rings, pendants, plaques, beads, and bracelets.

D. Coins of Cypriot Types

Coins of Cypriot types made of gold, silver, and bronze including but not limited to:

1. Issues of the ancient kingdoms of Amathus, Kition, Kourion, Idalion, Lapethos, Marion, Paphos, Soli, and Salamis dating from the end of the 6th century B.C. to 332 B.C.

2. Issues of the Hellenistic period, such as those of Paphos, Salamis, and Kition from 332 B.C. to c. 30 B.C.

3. Provincial and local issues of the Roman period from c. 30 B.C. to 235 A.D. Often these have a bust or head on one side and the image of a temple (the Temple of Aphrodite at Palaipaphos) or statue (statue of Zeus Salaminios) on the other.

List of Ecclesiastical and Ritual Ethnological Material From Cyprus Representing the Byzantine and Post-Byzantine Periods Dating From Approximately the 4th Century A.D. to 1850 A.D.

I. Metal

A. Bronze

Ceremonial objects include crosses, censers (incense burners), rings, and buckles for ecclesiastical garments. The objects may be decorated with engraved or modeled designs or Greek inscriptions. Crosses, rings and buckles are often set with semi-precious stones.

B. Lead

Lead objects date to the Byzantine period and include ampulla (small bottle-shaped forms) used in religious observance.

C. Silver and Gold

Ceremonial vessels and objects used in ritual and as components of church treasure. Ceremonial objects include censers (incense burners), book covers, liturgical crosses, archbishop's crowns, buckles, and chests. These are often decorated with molded or incised geometric motifs or scenes from the Bible, and encrusted with semi-precious or precious stones. The gems themselves may be engraved with religious figures or inscriptions. Church treasure may include all of the above, as well as rings, earrings, and necklaces (some decorated with ecclesiastical themes) and other implements (e.g., spoons).

II. Wood

Artifacts made of wood are primarily those intended for ritual or ecclesiastical use during the Byzantine period. These include painted

icons, painted wood screens (iconostases), carved doors, crosses, painted wooded beams from churches or monasteries, thrones, chests and musical instruments. Religious figures (Christ, the Apostles, the Virgin, and others) predominate in the painted and carved figural decoration. Ecclesiastical furniture and architectural elements may also be decorated with geometric or floral designs.

III. Ivory and Bone

Ecclesiastical and ritual objects of ivory and bone boxes, plaques, pendants, candelabra, stamp rings, crosses. Carved and engraved decoration includes religious figures, scenes from the Bible, and floral and geometric designs.

IV. Glass

Ecclesiastical objects such as lamps and ritual vessels.

V. Textiles—Ritual Garments

Ecclesiastical garments and other ritual textiles from the Byzantine period. Robes, vestments and altar clothes are often of a fine fabric and richly embroidered in silver and gold. Embroidered designs include religious motifs and floral and geometric designs.

VI. Stone

A. Wall Mosaics

Dating to the Byzantine period, wall mosaics are found in ecclesiastical buildings. These generally portray images of Christ, Archangels, the Apostles, and Saints in scenes of Biblical events. Surrounding panels may contain animal, floral, or geometric designs.

B. Floor Mosaics

Floor mosaics from ecclesiastical contexts. Examples include the mosaics at Nea Paphos, Kourion, Kouklia, Chrysopolitissa Basilica and Campanopetra Basilica. Floor mosaics may have animal, floral, geometric designs, or inscriptions.

VII. Frescoes/Wall Paintings

Wall paintings from the Byzantine period religious structures (churches, monasteries, chapels, etc.) Like the mosaics, wall paintings generally portray images of Christ, Archangels, the Apostles, and Saints in scenes of Biblical events. Surrounding paintings may contain animal, floral, or geometric designs.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). For the same reasons, a delayed effective date is not required.

Regulatory Flexibility Act

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

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

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

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

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

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g(a) [Amended]

■ 2. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Cyprus by, in the column headed “Cultural Property,” removing the words “Byzantine period” and adding in their place the words “Byzantine and Post-Byzantine periods”

and removing the words “the 15th century A.D.” and adding in their place the words “1850 A.D.”, and, in the column headed “Decision No.,” removing the reference to “CBP Dec. 07–52 and adding in its place “CBP Dec. 12–13”.

Dated: July 5, 2012.

THOMAS WINKOWSKI,
Acting Commissioner, U.S. Customs and Border Protection.

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

[Published in the Federal Register, July 13, 2012 (77 Fr 41266)]



GENERAL NOTICE

COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 6 2012)

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

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in May 2012. The last notice was published in the CUSTOMS BULLETIN on May 30, 2012.

Corrections or updates may be sent to: Intellectual Property Rights Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, D.C. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Delois Johnson, Paralegal, Intellectual Property Rights Branch, Regulations & Rulings, Office of International Trade, (202) 325–0088.

Dated: July 5, 2012

CHARLES R. STEUART
*Chief, Intellectual Property Rights Branch
Regulations & Rulings
Office of International Trade*

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 06-00528	6/22/2012	10/12/2019	WAVE BIOREACTOR IN LOGO	GE HEALTHCARE BIO-SCIENCES CORP.	No
TMK 06-00563	6/22/2012	6/3/2013	HOT LIPS TUBE SEALER	GE HEALTHCARE BIO-SCIENCES CORP.	No
TMK 06-00450	6/22/2012	2/17/2014	CELLBAG	GE HEALTHCARE BIO-SCIENCES CORP.	No
TMK 05-00971	6/22/2012	5/25/2022	DESIGN ONLY	REEBOK INTERNATIONAL LIMITED	No
TMK 06-00564	6/22/2012	9/30/2013	WAVEBAG	GE HEALTHCARE BIO-SCIENCES CORP.	No
TMK 06-00280	6/22/2012	4/6/2014	WAVE BIOREACTOR	GE HEALTHCARE BIO-SCIENCES CORP.	No
TMK 02-00399	6/22/2012	3/2/2022	ANDRE RIVALLE	E. GLUCK CORPORATION	No
TMK 02-00679	6/22/2012	3/19/2022	GAME BOY ADVANCE	NINTENDO OF AMERICA INC.	No
TMK 02-00860	6/22/2012	5/6/2022	BERNINA	BERNINA INTERNATIONAL AG	No
TMK 03-00191	6/22/2012	11/17/2012	SKWISH	MANHATTAN GROUP, LLC	No
TMK 03-00374	6/22/2012	4/2/2022	TAYLOR MADE & DESIGN	TAYLOR MADE GOLF COMPANY, INC.	No
TMK 12-00670	6/22/2012	1/11/2021	TWILIGHT LADYBUG	CLOUD B. INC.	No
TMK 03-00947	6/22/2012	4/14/2022	DESIGN	WINSFORD CORPORATION	No
TMK 04-00011	6/22/2012	10/1/2022	ADVAIR	GLAXO GROUP LIMITED	No
TMK 04-00357	6/22/2012	5/10/2022	PEPSODENT	CHURCH & DWIGHT CO., INC.	No
TMK 04-00586	6/22/2012	5/21/2022	ORLANDO MAGIC AND DESIGN	ORLANDO MAGIC, LTD.	No
TMK 12-00671	6/22/2012	12/12/2031	CABOKI	LINA ZHANG	No
TMK 04-00741	6/22/2012	4/2/2122	MANCHESTER UNITED & DESIGN	MANCHESTER UNITED PLC	No
TMK 12-00675	6/22/2012	5/17/2015	SMARTVISION	LSI INDUSTRIES INC.	No
TMK 09-00306	6/5/2012	4/28/2022	DURAGESIC	JOHNSON & JOHNSON	No

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-00309	6/4/2012	5/25/2022	MAVERICK	LORILLARD LICENSING COMPANY, LLC	No
TMK 12-00581	6/8/2012	4/17/2022	PICROSS DS	NINTENDO OF AMERICA INC.	No
TMK 07-00156	6/22/2012	9/24/2022	MALARONE	GLAXO GROUP LIMITED	No
TMK 12-00558	6/4/2012	4/3/2022	WII (STYLIZED)	NINTENDO OF AMERICA INC.	No
TMK 07-00587	6/5/2012	2/19/2022	D&B AND DESIGN	DOONEY & BOURKE INC.	No
TMK 07-01269	6/22/2012	3/31/2022	VALENTI FRANCO	OLEM SHOE CORP.	No
TMK 07-01143	6/22/2012	4/30/2022	XTERRA	NISSAN JIDOSHA KABUSHIKI KAISHA	No
TMK 12-00667	6/22/2012	5/22/2022	ROAD TO LONDON	UNITED STATES OLYMPIC COMMITTEE	No
TMK 08-00064	6/22/2012	6/18/2022	XTERRA	NISSAN JIDOSHA KABUSHIKI KAISHA	No
TMK 08-00519	6/22/2012	3/12/2022	TOSHIBA	KABUSHIKI KAISHA TOSHIBA, TRADING AS TOSHIBA CORPORATION	No
TMK 04-00401	6/22/2012	6/9/2022	PATRON BOTTLE DESIGN	PATRON SPIRITS INTERNATIONAL AG	No
TMK 12-00582	6/8/2012	4/16/2021	EAGLE AND DESIGN	BORDEN CO. (PTE) LTD.	No
TMK 12-00672	6/22/2012	1/31/2016	BUCHANAN'S	DIAGEO BRANDS B.V.	No
TMK 12-00668	6/22/2012	11/5/2021	LSI	LSI INDUSTRIES INC.	No
TMK 12-00674	6/22/2012	3/2/2020	NEEVODHA	PAMLAB L.L.C.	No
TMK 12-00593	6/8/2012	10/9/2021	MARIO TENNIS	NINTENDO OF AMERICA INC.	No
TMK 12-00583	6/8/2012	8/18/2018	BOTTLE CONFIGURATION	COINTREAU CORPORATION	No
TMK 12-00587	6/8/2012	11/15/2021	DROP IT MODERN.	BREANNE SCHAAP	No

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 12-00584	6/8/2012	2/22/2014	VINOTEMP	VINOTEMP INTERNATIONAL CORPORATION	No
TMK 12-00585	6/8/2012	5/1/2022	ITALIAN SHOEMAKERS	ITALIAN SHOEMAKERS, INC.	No
TMK 12-00590	6/8/2012	8/26/2013	FUTURE OLYMPIAN	UNITED STATES OLYMPIC COMMITTEE	No
TMK 12-00586	6/8/2012	6/5/2022	WURL	BDSRCO INC.	No
TMK 12-00673	6/22/2012	6/12/2017	RUNBIRD DESIGN	MIZUNO CORPORATION	No
COP 12-00096	6/22/2012	6/22/2032	CETROTIDE 0.25 MG BOX (CODE 1060371) AND PATIENT LEAFLET (CODE 1060386)	ARES TRADING S.A.,	No
TMK 12-00559	6/4/2012	4/17/2022	FOR AMERICANS	INTERNATIONAL PROJECTS INC.	No
TMK 12-00560	6/4/2012	10/17/2016	BISSELL WITH-TRIANGLE DESIGN	BISSELL HOME CARE, INC.	No
TMK 12-00561	6/4/2012	5/30/2016	PROHEAT 2X	BISSELL HOME CARE, INC.	No
TMK 12-00669	6/22/2012	1/6/2019	SMARTVISION	LSI INDUSTRIES INC.	No
TMK 12-00651	6/22/2012	6/28/2021	BAILEYS	R & A BAILEY & CO	No
TMK 12-00567	6/4/2012	9/24/2022	CHINROSE	ROSE HILL ENTERPRISES LLC	No
COP 12-00082	6/5/2012	6/5/2032	AIR SWIMMERS VIDEO.	WILLIAM MARK CORPORATION	No
COP 12-00081	6/5/2012	6/5/2032	THE LEGEND OF ZELDA: SKYWARD SWORD.	NINTENDO OF AMERICA INC.,	No
COP 12-00083	6/5/2012	6/5/2032	MINI JAMMERS VIDEO.	WILLIAM MARK CORPORATION	No
TMK 12-00656	6/22/2012	7/15/2018	CROSSOVER	LSI INDUSTRIES INC.	Yes

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 12-00664	6/22/2012	3/6/2022	DQ	JAY Y ENTERPRISE CO., INC.	No
TMK 12-00578	6/5/2012	12/20/2021	G AND DESIGN	GASTON J. GLOCK STYLE LP	No
TMK 12-00569	6/4/2012	1/3/2022	GASTON G AND DESIGN	GASTON J. GLOCK STYLE LP	No
TMK 12-00570	6/4/2012	5/10/2021	312	LIMITED STORES, LLC	No
TMK 12-00571	6/4/2012	5/10/2021	678	LIMITED STORES, LLC	No
TMK 12-00566	6/4/2012	4/3/2022	WII (STYLIZED)	NINTENDO OF AMERICA INC.	No
TMK 12-00573	6/4/2012	1/14/2017	BIG GREEN	BISELL HOMECARE, INC.	No
TMK 12-00568	6/4/2012	12/27/2021	G AND DESIGN	GASTON J. GLOCK STYLE LP	No
TMK 12-00574	6/4/2012	3/13/2022	WII	NINTENDO OF AMERICA INC.	No
TMK 12-00653	6/22/2012	6/5/2021	TECH DECK	SPIN MASTER LTD.	No
TMK 12-00652	6/22/2012	7/12/2021	TRANSITIONAL PRESSURE SENSITIVE	W. F. TAYLOR CO., INC.	No
TMK 12-00572	6/4/2012	9/27/2015	BEYBLADE	TOMY COMPANY LTD.	No
COP 12-00080	6/4/2012	6/4/2032	LIVE LOVE LAUGH	CG CREATIONS	No
COP 12-00079	6/4/2012	6/4/2032	MOM	CG CREATIONS	No
COP 12-00078	6/4/2012	6/4/2032	SIS.	CG CREATIONS	No
TMK 12-00579	6/5/2012	4/9/2022	C COOL AND DESIGN	ODILE CROULET	No
TMK 12-00665	6/22/2012	10/8/2014	B BERKLINE	ASHLEY FURNITURE INDUSTRIES, INC.	No
TMK 12-00654	6/22/2012	1/9/2017	DACOGEN	ASTEX PHARMACEUTICALS, INC.	No

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 12-00576	6/4/2012	3/6/2017	KEYSONIC	KEYSONIC TECHNOLOGY INC.	No
TMK 12-00655	6/22/2012	12/14/2020	CHANEL	CHANEL, INC.	No
TMK 12-00575	6/4/2012	8/23/2021	MALIBU KIDZ	MALIBU KIDZ LLC	No
TMK 03-00234	6/22/2012	12/28/2012	ELDORADO AND DESIGN	ELDORADO COFFEE DISTRIBUTORS LTD	No
COP 12-00092	6/22/2012	6/22/2032	REBIF 44 MCG -BOX (CODE E67B0101F) AND PATIENT LEAFLET (CODE N67Z0101G)	ARES TRADING S.A.,	No
TMK 12-00657	6/22/2012	9/1/2019	REBIF AND DESIGN	ARES TRADING S.A.	No
COP 12-00093	6/22/2012	6/22/2032	SEROSTIM 5 MG -BOX (CODE E6430102B) AND PATIENT LEAFLET (CODE N64Z0103D)	ARES TRADING S.A.	No
TMK 12-00661	6/22/2012	3/24/2018	BLACK & WHITE	DIAGEO BRANDS B.V.	No
COP 12-00094	6/22/2012	6/22/2032	BIRD OF PREY	BIRD-B-GONE	No
TMK 12-00632	6/22/2012	9/18/2017	DUALINK	HORIZON HOBBY, INC.	No
TMK 12-00660	6/22/2012	7/15/2017	BETHEL WHITE	ROCK OF AGES CORPORATION	No
TMK 12-00659	6/22/2012	7/20/2019	SALISBURY PINK	ROCK OF AGES CORPORATION	No
TMK 12-00666	6/22/2012	10/14/2018	LONDON AND DESIGN	UNITED STATES OLYMPIC COMMITTEE	No
TMK 12-00663	6/22/2012	3/22/2021	BUTRANS	PURDUE PHARMA L.P.	No
TMK 12-00662	6/22/2012	5/29/2014	MS CONTIN	PURDUE PHARMA L.P.	No

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 12-00563	6/4/2012	3/6/2022	TM SERIES WATER METERS AND DESIGN SIGN	GREAT PLAINS INDUSTRIES, INC	No
TMK 12-00565	6/4/2012	2/21/2014	SHOWTIME	SHOWTIME NETWORKS INC.	No
TMK 12-00562	6/4/2012	6/8/2019	PETSWAY	PETSWAY, LLC	No
TMK 12-00577	6/5/2012	6/1/2022	SLABBINCK	M.V.M. NAAMLOZE VENNOOTSCHAP	No
TMK 12-00589	6/8/2012	10/18/2015	AUDI FOUR RINGS LOGO	AUDI AG	No
TMK 12-00588	6/8/2012	4/17/2022	TRIFORCE	NINTENDO OF AMERICA INC.	No
COP 12-00095	6/22/2012	6/22/2032	POKEMON RUMBLE BLAST (US COMMERCIAL PACKAGING)	NINTENDO OF AMERICA INC.,	No
COP 12-00084	6/8/2012	6/8/2032	SUPER MARIO 3D LAND (US COMMERCIAL PACKAGING)	NINTENDO OF AMERICA INC.	No
COP 12-00086	6/8/2012	6/8/2032	PUNCH-OUT !	NINTENDO OF AMERICA INC.	No
COP 12-00085	6/8/2012	6/8/2032	NINTENDO 3DS (US HARDWARE PACKAGING)	NINTENDO OF AMERICA INC.	No
TMK 12-00592	6/8/2012	1/9/2017	SILVER JEANS	WESTERN GLOVE WORKS	No
TMK 12-00650	6/22/2012	4/6/2020	CELLARTEC BY APEX AND DESIGN	VINOTEMP INTERNATIONAL CORPORATION	No
TMK 12-00633	6/22/2012	8/20/2016	WINE-MATE	VINOTEMP INTERNATIONAL CORPORATION	No
TMK 12-00591	6/8/2012	6/5/2022	REEL LEGENDS	BDSRCO INC.	No

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 12-00564	6/4/2012	5/17/2015	CBS DVD AND DESIGN	CBS BROADCASTING INC.	No
TMK 12-00605	6/15/2012	11/18/2018	LONDON 2012	UNITED STATES OLYMPIC COMMITTEE	No
TMK 12-00635	6/22/2012	8/16/2021	DSMX	HORIZON HOBBY, INC.	No
COP 12-00087	6/8/2012	6/8/2032	MARIO KART 7 (US COMMERCIAL PACKAGING)	NINTENDO OF AMERICA INC.,	No
TMK 12-00580	6/8/2012	1/23/2017	FUJIYOKI	AMERICAN CROCODILE INTERNATIONAL GROUP, INC.	No
TMK 12-00634	6/22/2012	8/3/2020	VINOTEMP	VINOTEMP INTERNATIONAL CORPORATION	No
TMK 12-00636	6/22/2012	5/22/2022	K-PAX RACING AND DESIGN	K-PAX RACING LLC	No
TMK 12-00641	6/22/2012	5/14/2022	YARDSTICK	GOLDSCHMIDT VINEYARDS LLC	No
TMK 06-00405	6/22/2012	9/28/2019	WAVE MIXER IN LOGO	GE HEALTHCARE BIO-SCIENCES CORP.	No
TMK 12-00607	6/15/2012	7/5/2021	A-D AND DESIGN	FRAME AND WHEEL, INC.	No
TMK 12-00644	6/22/2012	5/31/2015	GARDENIA WHITE	ROCK OF AGES CORPORATION	No
TMK 12-00637	6/22/2012	4/9/2015	BLACK LABEL	DIAGEO BRANDS B.V.	No
TMK 12-00608	6/15/2012	5/18/2020	BAILLEYS THE ORIGINAL IRISH CREAM CREAM THE ORIGINAL IRISH CREAM R A BAILEY AND DESIGN	R & A BAILEY & CO	No
TMK 12-00638	6/22/2012	9/6/2015	DESIGN	DIAGEO BRANDS B.V.	No
TMK 12-00647	6/22/2012	8/3/2019	BARRE GRAY	ROCK OF AGES CORPORATION	No

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 12-00646	6/22/2012	4/9/2016	MIZUNO	MIZUNO CORPORATION	No
COP 12-00091	6/22/2012	6/22/2032	SAIZEN 8.8 MG -BOX (CODE E12H0101C) AND PATIENT LEAFLET (CODE N12Z0101E)	ARES TRADING S.A.,	No
TMK 12-00639	6/22/2012	11/20/2021	FROG AND DESIGN	KING TECHNOLOGY, INC.	No
TMK 12-00640	6/22/2012	5/29/2022	QWI AND DESIGN	ETSUKO, LLC	No
TMK 12-00658	6/22/2012	4/11/2016	SPEKTRUM AND DESIGN	HORIZON HOBBY, INC.	No
TMK 12-00643	6/22/2012	5/8/2022	TIP TOOL	DATA TRANSFER SOLUTIONS LLC	No
TMK 12-00606	6/15/2012	11/2/2013	BLUE LABEL	DIAGEO BRANDS B.V.	No
TMK 12-00645	6/22/2012	1/10/2016	DSM	HORIZON HOBBY, INC.	No
TMK 12-00649	6/22/2012	1/15/2018	OLD PARR	DIAGEO BRANDS B.V.	No
TMK 12-00594	6/15/2012	4/9/2022	JOHNNIE WALKER	DIAGEO BRANDS B.V.	No
TMK 12-00595	6/15/2012	9/17/2022	AMERICAN BLACK	ROCK OF AGES CORPORATION	No
TMK 12-00642	6/22/2012	1/24/2022	DSM2	HORIZON HOBBY, INC.	No
TMK 12-00596	6/15/2012	9/20/2021	ALGIDHA	PAMLAB L.L.C.	No
TMK 12-00597	6/15/2012	6/20/2021	PHILIPS AND DESIGN	KONINKLIJKE PHILIPS ELECTRONICS N.V.	No
TMK 12-00648	6/22/2012	7/19/2015	SLEEP SHEEP	CLOUD B. INC.	No
TMK 12-00631	6/22/2012	2/2/2019	S AND DESIGN	COLUMBIA PICTURES INDUSTRIES, INC.	No

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 12-00614	6/22/2012	7/28/2019	TOMS	MYCOSKIE, LLC	No
TMK 12-00598	6/15/2012	12/25/2020	NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 12-00600	6/15/2012	9/30/2018	MONKEY AROUND IN LAS VEGAS	MYRIAD MARKETING, LLC	No
TMK 12-00615	6/22/2012	5/22/2022	KINDERLOU FOREST AND DESIGN	KINDERLOU FOREST GOLF CLUB, LLC	Yes
TMK 12-00616	6/22/2012	5/16/2021	SALISBURY PINK	ROCK OF AGES CORPORATION	No
TMK 12-00617	6/22/2012	10/11/2021	TRANQUIL TURTLE	CLOUD B. INC.	No
TMK 12-00618	6/22/2012	1/20/2019	TOMS	MYCOSKIE, LLC	No
TMK 12-00619	6/22/2012	6/1/2014	SEAPAK SHRIMP CO FINEST QUALITY ON ST SIMONS ISLAND SINCE 1948 AND DESIGN	RICH PRODUCTS CORPORATION	No
COP 12-00088	6/22/2012	6/22/2032	SLIM AWAY.	TELEBRANDS CORP.	No
TMK 12-00620	6/22/2012	11/24/2022	OLYMPIAN	UNITED STATES OLYMPIC COMMITTEE	No
TMK 07-00084	6/22/2012	4/9/2022	J12	CHANEL, INC.	No
TMK 06-00561	6/22/2012	9/27/2015	BIOWAVE	GE HEALTHCARE BIO-SCIENCES CORP	No
TMK 12-00621	6/22/2012	9/6/2015	VW	VOLKSWAGEN AKTIENGESELLSCHAFT	No
TMK 12-00599	6/15/2012	2/6/2017	STABILICERS	32 NORTH CORPORATION	No
TMK 12-00622	6/22/2012	2/15/2015	TRACTION GEAR	32 NORTH CORPORATION	No
TMK 12-00602	6/15/2012	8/6/2021	PHILIPS	KONINKLIJKE PHILIPS ELECTRONICS N.Y.	No

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 12-00601	6/15/2012	6/12/2017	DESIGN	DIAGEO BRANDS B.V.	No
TMK 12-00603	6/15/2012	8/17/2020	STAT-A-REST	32 NORTH CORPORATION	No
TMK 12-00623	6/22/2012	8/19/2018	ARMOR ALL AND VIKING DESIGN	THE ARMOR ALL/STP PRODUCTS COMPANY	No
TMK 12-00624	6/22/2012	1/17/2021	SONY PICTURES AND DESIGN	SONY KABUSHIKI KAISHA, TA SONY CORPORATION	No
TMK 12-00625	6/22/2012	2/27/2017	BAILEYS AND DESIGN	R & A BAILEY & CO	No
TMK 12-00626	6/22/2012	2/15/2021	CLOUD B	CLOUD B , INC.	No
TMK 12-00627	6/22/2012	7/26/2021	GENTLE GIRAFFE	CLOUD B. INC.	No
COP 12-00090	6/22/2012	6/22/2032	BAKE POP PACKAGING	TELEBRANDS CORP.	No
COP 12-00089	6/22/2012	6/22/2032	INSTABULB PACKAGING.	TELEBRANDS CORP.	No
TMK 12-00629	6/22/2012	10/10/2020	U.S. OLYMPIC TEAM TRIALS	UNITED STATES OLYMPIC COMMITTEE	No
TMK 12-00628	6/22/2012	6/12/2022	BRIGHTEN THE SEASON	BDSRCO INC.	No
TMK 12-00604	6/15/2012	11/18/2017	TIKI	LAMPLIGHT FARMS, INC.	No
TMK 12-00630	6/22/2012	12/11/2017	TOMS	MYCOSKIE, LLC	No
TMK 12-00610	6/22/2012	10/5/2019	WMW LOGO	WORLD, LLC	No
TMK 12-00612	6/22/2012	2/14/2022	TOMS	MYCOSKIE, LLC	No
TMK 12-00611	6/22/2012	6/18/2016	WMW AND DESIGN	WORLD, LLC	No

CBP IPR RECORDATION — JUNE 2012

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 12-00613	6/22/2012	11/1/2021	STELARA	JOHNSON & JOHNSON	No
TMK 12-00609	6/22/2012	2/28/2022	KK	KOUTURE VENTURES INC.	No

Total Records: 166

Date as of: 7/2/2012

**REVOCAION OF A RULING LETTER AND REVOCAION
OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF A CERTAIN TERRACOTTA GRILL**

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

ACTION: Notice of revocation of a ruling letter and revocation of treatment relating to tariff classification of a terracotta grill.

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 and Border Protection (CBP) is revoking one ruling letter relating to the tariff classification of a terracotta grill under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 45, No. 41, on October 5, 2011. 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 October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Aaron Marx, Tariff Classification and Marking Branch: (202) 325–0195.

SUPPLEMENTARY INFORMATION:

Background

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

out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625 (c)(1), Tariff Act of 1930, as amended (19 U.S.C. §1625 (c)(1)), this notice advises interested parties that CBP is revoking one ruling letter pertaining to the tariff classification of a terracotta grill. Although in this notice, CBP is specifically referring to the revocation of NY N025431, dated April 3, 2008, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the rulings identified above. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during this notice period.

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

In NY N025431, CBP determined that the terracotta grill was classified in heading 6914, HTSUS, specifically in subheading 6914.90.80, HTSUS, which provides for "Other ceramic articles: Other: Other". It is now CBP's position that the subject terracotta grill is properly classified in heading 6912, HTSUS, specifically in subheading 6912.00.50, HTSUS, which provides for: "Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china: Other".

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N025431 in order to reflect the proper classification of the subject terracotta grill according to the analysis contained in Headquarters Ruling Letter (HQ) H141335, set forth as an attachment to this document. Addi-

tionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

In accordance with 19 U.S.C. §1625(c), HQ H141335 will become effective 60 days after publication in the *Customs Bulletin*.

Dated: July 13, 2012

IEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H141335

July 6, 2012

CLA-2 OT:RR:CTF:TCM H141335 AMM

CATEGORY: Classification

TARIFF NO.: 6912.00.50

MR. TROY CRAGO

ATICO INTERNATIONAL USA, INC.

501 SOUTH ANDREWS AVENUE

FT. LAUDERDALE, FL 33301

RE: Revocation of New York Ruling Letter N025431; Tariff Classification of a Terracotta Grill

DEAR MR. CRAGO,

This is in reference to New York Ruling Letter (NY) N025431, dated April 3, 2008, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of a terracotta grill. In that ruling, Customs and Border Protection (CBP) classified the grill under heading 6914, HTSUS, which provides for “Other ceramic articles”. We have reviewed NY N025431 and found it to be incorrect. For the reasons set forth below, we intend to revoke that ruling.

FACTS:

In NY N025431, the product at issue was identified as “a terracotta grill, Item Number A050AA01448. By weight, the product material consists of 90% terracotta¹ (frame/base) and 10% stainless steel (grill). It measures 17.25 inches in diameter by 8.25 inches in height.” A black and white photo of the product included in the file indicates that the terracotta base has a bowl shape, with a cut-out on the side for inserting solid fuel. The metal grill lies across the top.

CBP classified the instant terracotta grill as a composite good, pursuant to GRI 3(b), and found that the ceramic portion imparted its essential character. As such, CBP classified the Grill under heading 6914, HTSUS, specifically under subheading 6914.90.80, which provides for “Other ceramic articles: Other: Other”.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke N025431 was published on October 5, 2011, in Volume 45, Number 41, of the Customs Bulletin. CBP received no comments in response to this notice.

ISSUE:

What is the proper classification of the instant terracotta grill under the HTSUS?

LAW AND ANALYSIS:

Merchandise imported into the United States 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 which requires otherwise, by the Additional U.S. Rules of

¹ Terracotta is a clay-based unglazed ceramic.

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 for all purposes.

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

The 2011 HTSUS provisions at issue are as follows:

6912	Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china:
6912.00.50	Other

6914	Other ceramic articles:
6914.90	Other:
6914.90.80	Other

Note 1 of Chapter 69, HTSUS, states: “This chapter applies only to ceramic products which have been fired after shaping. Headings 6904 to 6914 apply only to such products other than those classifiable in headings 6901 to 6903.”

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 the headings. It is CBP’s practice to consult the terms of the ENs when interpreting the HTSUS. See T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 69.12 states, in pertinent part: “The headings therefore include: ... (C) Other household articles such as ash trays, hot water bottles and matchbox holders.”

EN 69.14 states, in pertinent part:

This heading covers all ceramic articles not covered by other headings of this Chapter or in other Chapters of the Nomenclature.

* * *

It includes, *inter alia* : (1) Stoves and other heating apparatus, made essentially of ceramics (generally of earthenware, sometimes of common pottery, etc.); non-refractory firebrick cheeks; ceramic parts of stoves or fireplaces, ceramic linings for wood burning stoves, including tiles of a kind specially adapted for stoves. Electric heating apparatus is, however, classified in heading 85.16.

* * *

Heading 6912, HTSUS, provides for “Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china”. The phrase “other household articles” is not defined in the HTSUS. When, as in this case, a tariff term is not defined by the HTSUS or its legislative history, “the term’s correct meaning is its common meaning.” *Mita Copystar Am. v. U.S.*, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term used in commerce is presumed to be the same as its commercial mean-

ing. *Simod Am. Corp. v. U.S.*, 872 F.2d 1572, 1576 (Fed. Cir. 1989). To ascertain the common meaning of a term, a court may consult “dictionaries, scientific authorities, and other reliable information sources” and “lexicographic and other materials.” *C.J. Tower & Sons v. U.S.*, 673 F.2d 1268, 1271 (CCPA 1982); *Simod*, 872 F.2d at 1576.

“Household’ is a broad term; the dictionary defines it as ‘of a household or home; domestic.’” *Hartz Mt. Corp. v. United States*, 903 F. Supp. 57, 59 (Ct. Int’l Trade 1995). CBP has consistently interpreted the phrase “household articles” to include items which are used outdoors in the immediate vicinity of the home. For example, in NY N108099, dated June 24, 2010, CBP classified an outdoor plastic key-concealing case under heading 3924.90.56, HTSUS, which provides, in pertinent part, for “... other household articles ... of plastics: other: other”. In NY N104201, dated May 10, 2010, CBP classified a can-shaped cooler which was intended for outdoor, garden, or camping use under heading 7323, HTSUS, which provides, in pertinent part, for “... other household articles and parts thereof, of iron or steel; ...”. In NY R00617, dated August 25, 2004, CBP classified a set of polypropylene stones used to create an outdoor garden pathway under heading 3924.90.55, HTSUS (2004), which provides for “... other household articles ... of plastics: other: other”.

It follows from the above that ceramic products which are intended for use outdoors, in the immediate vicinity of a home, fall within the scope of “other household articles” for purposes of classification under heading 6912, HTSUS. The instant terracotta grill is a ceramic outdoor grill intended for backyard cooking. Therefore, it is properly classified under heading 6912, HTSUS, specifically under subheading 6912.00.50, which provides for “Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china: Other”.

Heading 6914, HTSUS, which provides for “Other ceramic articles”, is a basket provision, which covers ceramic articles that are not provided for in any other heading of Chapter 69, HTSUS. *See* EN 69.14. As the terracotta grill is properly classified under heading 6912, HTSUS, it is precluded from classification under 6914, HTSUS.

HOLDING:

By application of GRI 1, the instant terracotta grill is classified in subheading 6912.00.50, HTSUS, which provides for: “Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china: Other”. The general, column one rate of duty is 6% *ad valorem*. Duty rates are provided for your convenience and are subject to change.

EFFECT ON OTHER RULINGS:

New York Ruling N025431, dated April 3, 2008, is hereby REVOKED.

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

Sincerely,
IEVA K. O'ROURKE
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE TARIFF CLASSIFICATION OF ULTRALUBE D-806**

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

ACTION: Notice of proposed revocation of ruling letter and treatment relating to tariff classification of Ultralube D-806.

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 and Border Protection (CBP) proposes to revoke one ruling letter relating to the tariff classification of Ultralube D-806 under the Harmonized Tariff Schedule of the United States (HTSUS). CBP also proposes to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before August 31, 2012.

ADDRESSES: Written comments are to be addressed to Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 799 9th Street, N.W. (Mint Annex), Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street N.W., Washington, D.C. 20001 during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Aaron Marx, Tariff Classification and Marking Branch: (202) 325–0195

SUPPLEMENTARY INFORMATION:

Background

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

Pursuant to section 625 (c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(1)), this notice advises interested parties that CBP intends to revoke one ruling letter pertaining to the tariff classification of Ultralube D-806. Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter (NY) N063739, dated June 17, 2009, (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. §1625(c)(2)), CBP proposes to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer’s failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care

on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

In NY N063739, CBP determined that Ultralube D-806 was classified in the heading 3901, HTSUS, specifically 3901.10.50, HTSUS, which provides for: “Polymers of ethylene, in primary forms: Polyethylene having a specific gravity of less than 0.94: Other”.

It is now CBP’s position that this product is properly classified in heading 3901, HTSUS, specifically 3901.20.10, HTSUS, which provides for “Polymers of ethylene, in primary forms: Polyethylene having a specific gravity of 0.94 or more: Having a relative viscosity of 1.44 or more”.

Pursuant to 19 U.S.C. §1625(c)(1), CBP proposes to revoke NY N063739 and to revoke or modify any other ruling not specifically identified, in order to reflect the proper classification of the subject Ultralube D-806 according to the analysis contained in proposed Headquarters Ruling Letters (HQ) H080820 (Attachment B). Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: July 13, 2012

IEVA K. O’ROURKE

for

MYLES B. HARMON

Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

June 17, 2009
CLA-2-39:OT:RR:E:NC:N2:237
CATEGORY: Classification
TARIFF NO.: 3901.10.5010

MR. BILL HAMMONS
C3G CUSTOMS SERVICES
975 E. NERGE ROAD SUITE S-50
ROSELLE, IL 60172-4826

RE: The tariff classification of Ultra Lube D-806 Linear Low Density Polyethylene (CAS-9002-88-4) from Germany.

DEAR MR. HAMMONS:

In your letter dated June 4, 2009 on behalf of Keim-Additec Surface USA, you requested a tariff classification ruling for Ultra Lube D-806 Linear Low Density Polyethylene. You did not submit a sample. You have provided an MSDS sheet and a list of components as follows: 50% linear low density Polyethylene, 40% Water, 6% Oxidized Polyethylene, 4% Ethoxylated alcohols.

Ultra Lube D-806 is described as an aqueous wax additive in which linear low density polyethylene particles of an average particle size of about 8µm are dispersed in water. The product will be incorporated into aqueous coatings such as water based printing inks to improve the surface qualities of the coating, ink and lacquers.

The applicable subheading for the article will be 3901.10.5010, Harmonized Tariff Schedule of the United States (HTSUS), which provides for polymers, in primary forms: linear low density polyethylene. The rate of duty will be 6.5%.

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

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 Frank Cantone 646) 733-3038.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H080820
CLA-2 OT:RR:CTF:TCM H080820 AMM
CATEGORY: Classification
TARIFF NO.: 3901.20.10

MR. ALAN KALMIKOFF, PRESIDENT
KEIM-ADDITEC SURFACE, USA, LLC
1200 CENTRAL AVE., SUITE 306
WILMETTE, IL 60091

RE: Revocation of New York Ruling Letter N063739; Tariff Classification of Ultralube D-806

DEAR MR. KALMIKOFF,

This is in reference to New York Ruling Letter (NY) N063739, dated June 17, 2009, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of the product identified as “Ultralube D-806.” In that ruling, U.S. Customs and Border Protection (CBP) classified the Ultralube D-806 under heading 3901, HTSUS, which provides for “Polymers of ethylene, in primary forms”. We have reviewed NY N063739 and found it to be incorrect. For the reasons set forth below, we intend to revoke that ruling.

FACTS:

In NY N063739, CBP described the instant merchandise as linear low density polyethylene, consisting of a mixture of “50% linear low density Polyethylene, 40% Water, 6% Oxidized Polyethylene, 4% Ethoxylated alcohols.” CBP further described it as “an aqueous wax additive in which linear low density polyethylene particles of an average particle size of about 8µm are dispersed in water. The product will be incorporated into aqueous coatings such as water based printing inks to improve the surface qualities of the coating, ink and lacquers.” CBP classified this product under heading 3901, HTSUS, which provides for “Polymers of ethylene, in primary forms”.

In your submission, dated July 10, 2009, you requested that CBP reconsider NY N063739. In this submission, you stated that “Ultralube D-806 is currently used as a polish, straight out of the container, by Chinese leather manufacturers who use the material for the Bianchini effect of toning (a whitening effect) the look of the leather and for soft feel properties.” You also included a Material Safety Data Sheet (MSDS) stating that the density of Ultralube D-806 is 0.96 g/cm³ at 22°C. According to your submission dated April 3, 2012, the viscosity of Ultralube D-806 is between 200 and 400 mPa*s at 20°C. You argue that the instant merchandise is properly classified under heading 2712, HTSUS, which provides in pertinent part for “[O]ther mineral waxes ...”, or under heading 3405, HTSUS, which provides in pertinent part for “Polishes and creams ...”. You provided two samples of the instant merchandise for review.

CBP Laboratory Report No. NY20091075, dated October 2, 2009, states that “Ultralube D-806 [is] a milky white liquid, [and] is an aqueous preparation of high density polyethylene wax.”

ISSUE:

What is the proper classification of Ultralube D-806 under the HTSUS?

LAW AND ANALYSIS:

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

The 2012 HTSUS provisions at issue are as follows:

2712 Petroleum jelly; paraffin wax, microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes and similar products obtained by synthesis or by other processes, whether or not colored:

2712.90 Other:

2712.90.20 Other

3404 Artificial waxes and prepared waxes:

3404.90 Other:

3404.90.51 Other

3405 Polishes and creams, for footwear, furniture, floors, coachwork, glass or metal, scouring pastes and powders and similar preparations (whether or not in the form of paper, wadding, felt, nonwovens, cellular plastics or cellular rubber, impregnated, coated or covered with such preparations), excluding waxes of heading 3404:

3405.90.00 Other

3901 Polymers of ethylene, in primary forms:

3901.10 Polyethylene having a specific gravity of less than 0.94:

3901.10.50 Other

3901.20 Polyethylene having a specific gravity of 0.94 or more:

3901.20.10 Having a relative viscosity of 1.44 or more

3901.20.50 Other

Additional U.S. Rule of Interpretation 1, HTSUS, states, in pertinent part: In the absence of special language or context which otherwise requires--

(a) a tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use;

(b) a tariff classification controlled by the actual use to which the imported goods are put in the United States is satisfied only if such use is intended at the time of importation, the goods are so used and proof thereof is furnished within 3 years after the date the goods are entered;

* * *

Note 5 to Chapter 34, HTSUS, states, in pertinent part:

In heading 3404, subject to the exclusions provided below, the expression “artificial waxes and prepared waxes” applies only to:

(a) Chemically produced organic products of a waxy character, whether or not water-soluble;

* * *

The heading does not apply to:

* * *

(c) Mineral waxes or similar products of heading 2712, whether or not intermixed or merely colored; or

(d) Waxes mixed with, dispersed in or dissolved in a liquid medium (headings 3405, 3809, etc.).

Note 2(b) to Chapter 39, HTSUS, states, in pertinent part: “This chapter does not cover: ... (b) Waxes of heading 2712 or 3404; ...”.

Note 6(a) to Chapter 39, HTSUS, states, in pertinent part: “In headings 3901 to 3914, the expression ‘primary forms’ applies only to the following forms: (a) Liquids and pastes, including dispersions (emulsions and suspensions) and solutions[.]”

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 EN provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of the headings. It is CBP’s practice to consult, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The EN to heading 27.12 states, in pertinent part:

The heading also includes products similar to those referred to in the heading and obtained by synthesis or by any other process (e.g., synthetic paraffin wax and synthetic microcrystalline wax). However, the heading does not include high polymer waxes such as polyethylene wax. These fall in heading 34.04.

The EN to heading 34.04 states, in pertinent part:

This heading covers artificial waxes (sometimes known in industry as “synthetic waxes”) and prepared waxes, as defined in Note 5 to this Chapter, which consist of or contain relatively high molecular weight organic substances and which are not separate chemically defined compounds. These waxes are:

(A) Chemically produced organic products of a waxy character, whether or not water-soluble. Waxes of heading 27.12, produced synthetically or otherwise (e.g., Fischer-Tropsch waxes consisting essentially of hydrocarbons) are, however, excluded. Water-soluble waxy products having surface-active properties are also excluded (heading 34.02).

* * *

The products described in (A), (B) and (C) above, when mixed with, dispersed (suspended or emulsified) in or dissolved in a liquid medium, are however excluded from this heading (headings 34.05, 38.09, etc.).

The waxes of paragraphs (A) and (C) above must have:

- (1) a dropping point above 40°C; and
- (2) a viscosity, when measured by rotational viscometry, not exceeding 10 Pa*s (or 10,000 cP) at a temperature of 10°C above their dropping point.

* * *

The EN to heading 34.05 states, in pertinent part:

These preparations may have a basis of wax, abrasives or other substances. Examples of such preparations are:

- (1) Waxes and polishes consisting of waxes impregnated with spirits of turpentine or emulsified in an aqueous medium and frequently containing added colouring matter.

* * *

In NY N063739, CBP classified the instant merchandise under heading 3901, HTSUS, which provides for “polymers of ethylene, in primary forms”. At the time of the original ruling request on June 4, 2009, you submitted product information, an MSDS and a list of ingredients. You described the instant merchandise as an aqueous wax additive in which linear low density polyethylene particles of an average particle size of about 8µm are dispersed in water, having a density of 1.0 g/ml. According to your original submission, the product was intended for incorporation into aqueous coatings such as water based printing inks to improve the surface qualities of the coating, ink and lacquers. Based on this information, CBP classified the instant product under heading 3901, HTSUS, specifically under subheading 3901.10.50, HTSUS, which provides for “Polymers of ethylene, in primary forms: Polyethylene having a specific gravity of less than 0.94: Other”.

After NY N063739 was issued, you requested a reconsideration of that ruling, alleging that the instant product is properly classified under heading 3405, HTSUS, as a polish. In the alternative, you suggest classification under heading 2712, HTSUS. A sample was submitted to the CBP Laboratory for review.

If the instant merchandise is classifiable under headings 2712 or 3404, HTSUS, it is excluded from classification in heading 3901, HTSUS. *See* Note 2(b) to Chapter 39, HTSUS. Therefore, it is appropriate to first consider whether the instant merchandise is properly classified in these headings.

Heading 2712, HTSUS, provides in pertinent part for “other mineral waxes and similar products obtained by synthesis or by other processes, whether or not colored”. According to the EN, “the heading does not include high polymer waxes such as polyethylene wax.” *See* EN 27.12. The instant product is comprised of a mixture of two polyethylene waxes. Therefore, it is not properly classified under heading 2712, HTSUS.

Heading 3404, HTSUS, provides for “artificial waxes and prepared waxes”. According to Note 5(a) to Chapter 34, HTSUS, the phrase “artificial waxes and prepared waxes” includes “[c]hemically produced organic products of a

waxy character, whether or not water-soluble". EN 34.04 lists two properties that a wax of this type must have, which are (1) a dropping point above 40°C, and (2) a viscosity, when measured by rotational viscometry, not exceeding 10 Pa*s (or 10,000 cP) at a temperature of 10 °C above its dropping point. See EN(1) and (2) to 34.04. In your submission, you allege that the dropping point of the sample provided was above 40°C, and its viscosity, when measured at 10°C above its dropping point, does not exceed 10,000 cP, but provide no data to support this assertion.

However, it is irrelevant whether the product satisfies Note 5(a) to Chapter 34, HTSUS. The instant product is composed of two types of polyethylene wax dispersed in water. Because the polyethylene wax used in Ultralube D-806 is "mixed with, dispersed in or dissolved in a liquid medium", it is excluded from heading 3404, HTSUS, by Exclusionary Note 5(d) to Chapter 34, HTSUS. Furthermore, because the instant product is not classifiable in heading 2712 or 3404, HTSUS, Note 2(b) to Chapter 39, HTSUS, does not operate to exclude the Ultralube D-806 from heading 3901, HTSUS.

In your submission, you argued that the instant merchandise is properly classified under heading 3405, HTSUS, which provides in pertinent part for "Polishes". The term "polish" is not defined in the HTSUS or the ENs.¹ The *Merriam-Webster Online Dictionary* defines the term "polish" as "3: a preparation that is used to produce a gloss and often a color for the protection and decoration of a surface." See <<http://www.m-w.com>> (last viewed on November 16, 2011). According to the ENs, one example of this type of preparation is a "polish[] consisting of waxes ... emulsified in an aqueous medium ...". See EN(1) to heading 34.05.

Heading 3405, HTSUS, is an *eo nomine* provision, in that it provides for a specific commodity by name. Ordinarily, use is not a criteria considered when determining whether merchandise is embraced within an *eo nomine* provision. *J.E. Mamiye & Sons, Inc. v. United States*, 509 F. Supp. 1268, 1274 (Cust. Ct. 1980); *Pistorino & Co. v. United States*, 599 F.2d 444 (C.C.P.A. 1979); *F.W. Myers & Co. v. United States*, 24 Cust. Ct. 178, 184–185, C.D. 1228 (1950). However, in *United States v. Quon Quon Co.*, 46 C.C.P.A. 70, 73 (1959), the Court of Customs and Patent Appeals stated:

Of all things most likely to help in the determination of the identity of a manufactured article, beyond the appearance factors of size, shape, construction and the like, use is of paramount importance. To hold otherwise would logically require the trial court to rule out evidence of what things actually are every time the collector thinks an article, as he sees it, is specifically named in the tariff act.

The *Quon Quon* case has come to stand for the proposition that use may be

¹ When a tariff term is not defined by the HTSUS or its legislative history, "the term's correct meaning is its common meaning." *Mita Copystar Am. v. United States*, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term used in commerce is presumed to be the same as its commercial meaning. *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed. Cir. 1989). To ascertain the common meaning of a term, a court may consult "dictionaries, scientific authorities, and other reliable information sources" and "lexicographic and other materials." *C.J. Tower & Sons v. United States*, 673 F.2d 1268, 1271 (C.C.P.A. 1982); *Simod*, 872 F.2d at 1576.

considered in determining the identity of an *eo nomine* provision. *Sears Roebuck & Co. v. United States*, 790 F. Supp. 299, 302 (Ct. Int'l. Trade 1992); *J.E. Mamiye & Sons, Inc.*, 509 F. Supp. at 1274; *Sanji Kobata et al. v. United States*, 326 F. Supp. 1397, 1402–1403 (Cust. Ct. 1971); *See also* HQ H128496, dated March 30, 2011; HQ W968275, dated January 26, 2010; HQ 964444, dated December 18, 2001; HQ 963032, dated July 24, 2000; HQ 957997, dated August 7, 1995.

Use is simply one of the factors to be considered in determining whether merchandise falls within the scope of an *eo nomine* tariff provision. *Myers v. United States*, 969 F. Supp. 66, 72 (Ct. Int'l. Trade 1997); *See also* HQ 964444; HQ 957997. “The Court does not read the [*Quon Quon*] opinion to support the proposition that certain *eo nomine* provisions are in fact governed by use.” *Myers*, 969 F. Supp. at 72. In order to determine whether the instant merchandise is, in fact, a “polish,” CBP will examine the four factors laid out in *Quon Quon*; namely the size, shape, construction, and use of the articles.

The instant product, Ultralube D-806, is a liquid, composed of a mixture of linear low density polyethylene, water, oxidized polyethylene, and ethoxylated alcohols. The product data sheets indicate that the instant merchandise is sold to the end user in “120 kg drums” or “1000 kg IBC” containers. These data sheets also indicate that the instant merchandise is a “water based dispersion improving [sic] the surface qualities of aqueous lacquers and printing inks” and “can also be used for the production of water based deforming lubricants.” The data sheets further state that the instant merchandise “is stirred directly into the formulation” of these products. You allege that the instant merchandise may be used straight out of the container, as a polish. In particular, in your letter dated July 10, 2009, you state that it is sold as an aqueous leather polish, used to create a “Bianchini-Effect”² in China. However, you provided no further evidence to support these assertions of such use in the United States.

The *Quon Quon* factors indicate that the instant product is not a “polish,” as that term is defined above. Even though the product consists of a wax dispersed in a liquid medium (which can be typical of a polish), it is not used as a polish in the United States. It is used as an additive for printing inks and for deforming lubricants. Even though you assert that the product is occasionally used as a polish, you have provided no evidence to support this claim. Furthermore, the product is sold in large volumes (120 kg drums and 1000 kg intermediate bulk containers), which, along with statements in the product data sheets, show that the product is added directly to the formulation of other products during a manufacturing process, rather than used straight out of the container as a leather polish, as you suggest. Therefore, the instant product is not properly classified as a “polish” under heading 3405, HTSUS.

The instant product is a mixture of polyethylene, oxidized polyethylene, and an ethoxylated alcohol, dispersed in water. As such, it is properly classified under heading 3901, HTSUS, which provides for “Polymers of ethylene, in primary forms”. *See* Note 6(a) to Chapter 39, HTSUS.

² No specific definition for this term is provided by Keim-Additec. It is described only as a “whitening” effect for leather products.

In NY N063739, CBP classified the instant product under heading 3901, HTSUS, specifically under subheading 3901.10.50, HTSUS, which provides for “Polymers of ethylene, in primary forms: Polyethylene having a specific gravity of less than 0.94: Other”. “The specific gravity of a material is defined as the ratio of its density to the density of some standard material, such as water at a specified temperature, for example, 60°F (15°C) ...”. *McGraw-Hill Concise Encyclopedia of Science and Technology*, 5th Ed. (McGraw-Hill, 2004), p. 2073. Water at room temperature has a density of 1.0 g/ml (or 1.0 g/cm³). CBP has previously observed that the specific gravity of a liquid is numerically equal to its density. See NY 803092, dated October 17, 1994.

The MSDS contained in your original submission, dated June 4, 2009, states that the density of the instant product is 1.0 g/ml, which translates to a specific gravity of 1.0. The MSDS contained in your request for reconsideration, dated July 10, 2009, states that the density of the instant product is 0.96 g/cm³, which translates to a specific gravity of 0.96. Even though CBP cannot be certain which of these statements is correct, we note that the specific gravity provided in both documents is greater than 0.94.

Classification at the 8-digit level requires consideration of the relative viscosity³ of the instant product. The term “viscosity” means, “For a laminar flow of a fluid the ratio of the shear stress to the velocity gradient perpendicular to the plane of shear.” *IUPAC Compendium of Chemical Terminology*, 2nd Ed. (available at <<http://goldbook.iupac.org>>). The term “relative viscosity” is defined as “The ratio of the viscosity of the solution, η , to the viscosity of the solvent, η_s , i.e., $\eta_r = \eta/\eta_s$.” *IUPAC Compendium of Chemical Terminology*. According to your submission dated April 3, 2012, the viscosity (η) of Ultralube D-806 at 20°C is between 200 and 400 mPa*s. Water is generally assumed to have a viscosity (η_s) of 1.0 mPa*s at 20°C. See, e.g., Kestin, et. al., “J. Phys. Chem. Ref. Data,” Vol. 7, No. 3 (1978).⁴ Thus, the relative viscosity of Ultralube D-806 is between 200 and 400, depending on the actual viscosity of the solution. Therefore, as the instant product has a specific gravity above 0.94, and a relative viscosity above 1.44, it is properly classified under subheading 3901.20.10, HTSUS, which provides for “Polymers of ethylene, in primary forms: Polyethylene having a specific gravity of 0.94 or greater: Having a relative viscosity of 1.44 or more”.

HOLDING:

By application of GRI 1, the instant Ultralube D-806 product is classified under heading 3901, HTSUS, specifically under subheading 3901.20.10, HTSUS, which provides for “Polymers of ethylene, in primary forms: Polyethylene having a specific gravity of 0.94 or greater: Having a relative viscosity of 1.44 or more”. The column one, general rate of duty is 6.5% *ad valorem*.

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

³ Viscosity is abbreviated with the symbol “ η ” (the greek letter “eta”). 1 mPa*s = 1 centipoise (cP).

⁴ Available at <<http://www.nist.gov/data/PDFfiles/jpcrd121.pdf>>.

EFFECT ON OTHER RULINGS:


New York Ruling Letter N063739, dated June 17, 2009, is hereby REVOKED in accordance with the above analysis.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**WITHDRAWAL OF NOTICE OF PROPOSED
MODIFICATION OF A RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF PLASTIC TOILET SEATS
WITH BIDET APPARATUSES AND HEATING ELEMENTS**

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

ACTION: Withdrawal of notice of proposed modification of a ruling letter and revocation of treatment relating to the tariff classification of plastic toilet seats with bidet apparatuses and heating elements.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is withdrawing its proposed modification of a ruling concerning the tariff classification of plastic toilet seats with bidet apparatuses and heating elements under the Harmonized Tariff Schedule of the United States (“HTSUS”). CBP is also withdrawing its proposal to revoke any treatment previously accorded by it to substantially identical transactions. Notice of the proposed modification was published on September 14, 2011, in the *Customs Bulletin*, Volume 45. No. 38. One comment was received in response to the notice. Due to ongoing litigation, CBP is withdrawing its proposal to modify the ruling and revoke the treatment.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Robert Shervette, Office of International Trade Regulations and Rulings, at (202) 325–0274.

SUPPLEMENTARY INFORMATION:

Background

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, a notice was published on September 14, 2011, in the *Customs Bulletin*, Volume 45. No. 38, proposing to modify one ruling letter pertaining to the tariff classification of plastic toilet seats with bidet apparatuses and heating elements. In the proposed notice, CBP referred to the modification of New York Ruling Letter (“NY”) B83505, dated April 21, 1997. One comment was received in response to the notice.

Section 177.7(b) U.S. Customs and Border Protection Regulations provides that no ruling will be issued with respect to any issue which is pending before the United States Court of International Trade (CIT) or the United States Court of Appeals for the Federal Circuit (CAFC). Issues pertaining to the classification of plastic toilet seats with bidet apparatuses and heating elements are currently presently pending before the CIT in *TOTO USA, Inc. v. United States*, CIT No. 11–00523. In light of ongoing litigation pertaining to issues similar to those raised in NY B83505, the proposed notice and action (proposed Headquarters Ruling Letter (HQ) H165016) is being withdrawn.

Dated: July 17, 2012

IEVA K. O'ROURKE
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

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**PROPOSED REVOCATION OF A RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE TARIFF CLASSIFICATION OF AN ARTICLE OF
INSULATING MINERAL MATERIALS**

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

ACTION: Notice of proposed revocation of a ruling letter and treatment concerning the tariff classification of an article of insulating mineral materials.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke a ruling letter relating to the tariff classification of an article of insulating mineral materials under the Harmonized Tariff Schedule of the United States (HTSUS). CBP also proposes to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATES: Comments must be received on or before August 31, 2012.

ADDRESSES: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Office of International Trade, Attention: Trade and Commercial Regulations Branch, 799 9th Street, 5th Floor, N.W., Washington, D.C. 20229–1179. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, N.W., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Dwayne S. Rawlings, Tariff Classification and Marking Branch, (202) 325-0092.

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 CBP to provide the public with improved information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke a ruling letter pertaining to the tariff classification of an article of insulating mineral materials. Although in this notice, CBP is specifically referring to the revocation of NY N125656, dated December 13, 2010 (Attachment A), this notice covers any rulings on this merchandise that may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

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

In NY N125656, CBP classified an article of insulating mineral materials in heading 6806, HTSUS, specifically subheading 6806.10.10, HTSUS, which provides for slag wool, rock wool and similar mineral wools (including mixtures thereof) in bulk, sheets or wool. It is now CBP's position that the article, while remaining in heading 6806, HTSUS, is properly classified in subheading 6806.90.00, HTSUS, which provides for other articles of insulating mineral materials.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY N125656 and any other ruling not specifically identified, in order to reflect the proper analysis contained in proposed HQ H146056, set forth in Attachment B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions.

Before taking this action, consideration will be given to any written comments timely received.

Dated: July 17, 2012

IEVA K. O'ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N125656

December 13, 2010

CLA-2-68:OT:RR:NC:N2:226

CATEGORY: Classification

TARIFF NO.: 6806.10.00

Ms. CARMEN MORROW
ROLLS-ROYCE NORTH AMERICA
2001 S. TIBBS AVENUE: SPEED CODE S36
INDIANAPOLIS, IN 46241

RE: The tariff classification of an article of insulating mineral materials

DEAR Ms. MORROW:

In your letter dated September 17, 2010, you requested a ruling regarding the classification of part number 23059513 described as a “thermal insulation blanket.”

You stated that this product consists of ceramic fiber (mineral wool) pads encapsulated in one-inch woven textile squares covered with an outer cladding of stainless steel.

Your letter indicates that the item will be used in a gas turbine engine to protect the rear turbine support hub from excessive heat produced by the turbine.

A sample was submitted with your ruling request. The sample was submitted to our Customs and Border Protection Laboratory for analysis. Our laboratory has now completed its analysis.

Our laboratory has verified that the insulating material (padding) in this product consists principally of ceramic fibers (aluminum silicate mineral fibers) but also includes a smaller percentage of glass fibers; the article also contains smaller amounts of other components.

In your letter you asked whether the product was classifiable in Chapter 68 or Chapter 70 of the Harmonized Tariff Schedule of the United States (HTSUS). This article contains both glass fibers of Chapter 70 and mineral fibers of Chapter 68. If an insulating product consisting of both glass fibers and mineral fibers was found to contain more glass fibers than mineral fibers, heading 7019 of the HTSUS would apply. However, based on the conclusion by our laboratory that the mineral fiber component - not the glass fiber component - is predominant in the submitted sample of the insulating product, the submitted item is classifiable in heading 6806, HTSUS.

Heading 6806 applies to this sample because the mineral fibers appear to predominate in the sample. These mineral fibers (mineral wool) impart the essential character of this sample.

Based on our laboratory analysis of the submitted sample, the applicable subheading for this article of insulating mineral materials - part number 23059513 - will be 6806.10.00, HTSUS, which provides for slag wool, rock wool and similar mineral wools (including intermixtures thereof) in bulk, sheets or rolls. The rate of duty will be 3.9 percent ad valorem

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

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 Jacob Bunin at 646-733-3027.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT B]

HQ H146056

CLA-2 OT:RR:CTF:TCM H146056 DSR

CATEGORY: Classification

TARIFF NO.: 6806.90.00

Ms. CARMEN MORROW
ROLLS-ROYCE NORTH AMERICA
2001 S. TIBBS AVENUE: SPEED CODE S36
INDIANAPOLIS, IN 46241

RE: Revocation of NY N125656, dated December 13, 2010; subheading 6806.90.00, HTSUS; tariff classification of an article of insulating mineral materials

DEAR Ms. MORROW:

This letter is in reference to New York Ruling Letter (NY) N125656, issued to you on December 13, 2010, regarding the classification under the 2010 Harmonized Tariff Schedule of the United States (HTSUS) of an article of insulating mineral materials used in a gas turbine engine to protect the rear turbine support hub from excessive heat produced by the turbine. The ruling classified the article under subheading 6806.10.00, HTSUS, which provides for “Slag wool, rock wool and similar mineral wools (including intermixtures thereof), in bulk, sheets or rolls.”

We have reviewed the tariff classification of the article and have determined that the cited ruling is in error. Therefore, NY N125656 is revoked for the reasons set forth in this ruling.

FACTS:

In NY N125656, we stated that the product identified as part number 23059513 and described as a “thermal insulation blanket” consists of “ceramic fiber (mineral wool) pads encapsulated in one-inch woven textile squares covered with an outer cladding of stainless steel.” We based the above upon statements by the importer, and upon the following findings in CBP Laboratory Report #15225, dated December 3, 2010:

The sample consists of three layers of white padding enclosed in stainless steel foil 0.003 mm thick. The unit measures at 24.6 cm in outside diameter x 23.1 cm in inside diameter x 5.0 cm long.

... The white padding is composed predominantly of an aluminum silicate (mineral fibers), non-woven glass fibers, and a smaller amount of titanium oxide and other oxides.

The importer states that the material composition of the white padding (by weight percentage) is 35–55% aluminum oxide, 35–55% silica, 0–18% titanium oxide, and less than 1% of other material.

ISSUE:

Whether the article in question is classified under (1) subheading 6806.10.00, HTSUS, as a mineral wool in bulk, sheets, or rolls; (2) subheading 6806.90.00, HTSUS, as an other form of mineral wool; (3) heading 7019, HTSUS, as a woven article of glass fibers; or (4) heading 7326, HTSUS, as an other article of iron or steel.

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 2 through 6 may then be applied in order. In addition, 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).

The HTSUS provisions under consideration in this case are as follows:

6806	Slag wool, rock wool and similar mineral wools; exfoliated vermiculite, expanded clays, foamed slag and similar expanded mineral materials; mixtures and articles of heat-insulating, sound-insulating or sound-absorbing mineral materials, other than those of heading 6811 or 6812, or of chapter 69:
6806.10.00	Slag wool, rock wool and similar mineral wools (including intermixtures thereof), in bulk, sheets or rolls. * * *
6806.90.00	Other. * * *
7019	Glass fibers (including glass wool) and articles thereof (for example, yarn, woven fabrics). * * *
7326	Other articles of iron or steel. * * *

EN 73.26 states that heading 7326, HTSUS, covers other articles of iron or steel that are:

... obtained by forging or punching, by cutting or stamping or by other processes such as folding, assembling, welding, turning, milling or perforating other than articles included in the preceding headings of Chapter 73, HTS, or covered by Note 1 to Section XV or included in Chapter 82 or 83 or more specifically covered elsewhere in the Nomenclature.

Although the article is partially composed of a thin layer of stainless steel foil cladding, the complete article is fully described by a heading other than heading 7326, HTSUS, as explained below.

Heading 6806 covers, in relevant part, articles of heat-insulating mineral materials, other than those of heading 6811, HTSUS, or heading 6812, HTSUS, or of Chapter 69, HTS. The EN to heading 6806 states that the heading covers, in relevant part, articles (usually of low density) made from heat insulating products or mixtures (e.g., blocks, sheets, bricks, tiles, tubes, cylinder shells, cords, pads). Such heat-insulating products or mixtures may be composed of a class of "alumino-silicates" known as "ceramic fibers," which are formed by "fusing a blend of alumina and silica, in varying proportions,

sometimes with the addition of small amounts of other oxides such as zirconia, chromia or boric oxide, and by blowing or extruding the melt into a mass of fibers.” *Ibid.*

Heading 7019, HTSUS, includes glass fibers themselves, as well as glass fibers (including glass wool as defined in Note 4 to Chapter 70, HTS) made up in various forms, including those glass fiber articles from other headings by reason of their nature. Furthermore, such articles of glass fibers of heading 7019, HTSUS, may be in the forms of thin sheets (voiles), mats, boards, and similar nonwoven products, among others. *See* EN 70.19. General Note 4 to Chapter 70, HTS, states the following:

For the purposes of heading 7019, the expression “glass wool” means:

- (a) Mineral wools with a silica (SiO₂) content not less than 60 percent by weight;
- (b) Mineral wools with a silica (SiO₂) content less than 60 percent but with an alkaline oxide (K₂O or Na₂O) content exceeding 5 percent by weight or a boric oxide (B₂O₃) content exceeding 2 percent by weight.

Mineral wools which do not comply with the above specifications fall in heading 6806.

(Emphasis added). Laboratory analysis of the article reveals that the mineral insulating fibers (mineral wool) predominate in the article, and the mineral insulating fibers are indispensable to the primary use and purpose of the article, which is to protect a rear turbine support hub from excessive heat produced by the turbine. According to the importer, the mineral insulating fibers contain 35–55% silica, with an alkaline oxide content not exceeding 5% by weight. Furthermore, the boric oxide content of the fibers does not exceed 2% by weight. Therefore, the article is not composed of glass wool, per General Note 4 to Chapter 70, HTS, and is instead classifiable in heading 6806, HTSUS.

Our inquiry continues with an analysis of which subheading within 6806, HTSUS, applies to the article. Of the relevant subheadings, subheading 6086.10.00, HTSUS, requires that the mineral wool be imported in bulk, sheets, or rolls. The instant article measures at 24.6 cm in outside diameter x 23.1 cm in inside diameter x 5.0 cm long. Upon examination, the article is in the shape of a ring with a large hole in its middle. A sheet is a broad, flat, continuous surface or expanse. *The American Heritage Dictionary of the English Language*, 4th Ed. (2009). Whereas a ring is a circular object, form, line, or arrangement with a vacant circular center. *Ibid.* As such, the article cannot be described as a sheet.

Thus, it is now the position of CBP that the proper subheading for the article is 6806.90.00, HTSUS, which provides for other forms of mineral wools.

HOLDING:

By application of GRI 1 and 6, the subject article is classifiable under heading 6806, HTSUS. Specifically, it is classifiable under subheading 6806.90.00, HTSUS, which provides for “Slag wool, rock wool and similar mineral wools ...: Other.” The column one, general rate of duty is “Free.” Duty rates are provided for your convenience and subject to change. The text

of the most recent HTSUS and the accompanying duty rates are provided at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY N125656, dated December 13, 2010, is hereby revoked.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**WITHDRAWAL OF PROPOSED REVOCATION OF RULING
LETTERS AND WITHDRAWAL OF PROPOSED
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF IPOD® DOCKING STATIONS
WITH SPEAKERS**

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

ACTION: Notice of withdrawal of proposed revocation of two ruling letters and withdrawal of proposed revocation of treatment relating to tariff classification of tumbled iPod® docking stations with speakers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (“CBP”) is withdrawing its proposal to revoke two ruling letters concerning the tariff classification of iPod® docking stations with speakers under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is withdrawing its proposal to revoke any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed revocation was published on July 7, 2010, in Volume 44, Number 28, of the Customs Bulletin. Two comments were received in response to this notice, opposing the proposed revocation.

FOR FURTHER INFORMATION CONTACT: Tamar Anolic, Tariff Classification and Marking Branch, (202) 325–0036.

SUPPLEMENTARY INFORMATION:

Background

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

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, CBP published a notice in the July 7, 2010, Customs Bulletin, Volume 44, Number 28, proposing to revoke New York Ruling Letter (NY) L88357, dated October 28, 2005, and NY M80063, dated February 9, 2006, pertaining to the tariff classification of iPod® docking stations with speakers, and to revoke any treatment accorded to substantially identical merchandise. Two comments were received in response to this notice.

In NY L88357 and NY M80063, CBP classified the subject iPod® docking stations with speakers in subheading 8522.90.75, HTSUS, which provides for “Parts and accessories suitable for use solely or principally with the apparatus of headings 8519 to 8521: Other: Other ... Other.”

The comments received in opposition to the proposed revocation highlighted the legal inconsistencies therein. In the proposed revocation, CBP proposed classification of the subject iPod® docking stations with speakers as speakers of heading 8518, HTSUS. In doing so, the ruling failed to account for the fact that heading 8522, HTSUS, describes the subject merchandise in its entirety. This is in contrast to the other headings under consideration, which only described part of the merchandise: heading 8518, HTSUS, only provides for the subject merchandise’s speakers, and heading 8504, HTSUS, only provides for the subject merchandise’s charging function. Furthermore, under an analysis of Note 3 to Chapter XVI, HTSUS, CBP examined the principal function of the subject merchandise. However, this analysis was performed as between headings 8504 and 8518, HTSUS, and did not consider heading 8522, HTSUS. Lastly, the proposed

revocation relied on Additional U.S. Rule 1(c) to exclude heading 8522, HTSUS, from the analysis, reasoning that a parts provision cannot prevail over a more specific provision. However, prior CBP rulings have held that Note 2 to Section XVI, HTSUS, which describes how parts of that section are to be classified, prevails over Additional U.S. Rule 1(c). *See, e.g.*, HQ 952019, dated March 18, 1993; HQ H017651, February 13, 2009.

For the reasons stated above, CBP is hereby withdrawing its proposal to revoke NY L88357 and NY M80063 and any other ruling not specifically identified. Additionally, CBP is withdrawing its proposal to revoke any treatment previously accorded by CBP to substantially identical transactions.

Dated: July 17, 2012

IEVA K. O'ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division