

Bureau of Customs and Border Protection

General Notices

LIST OF FOREIGN ENTITIES VIOLATING TEXTILE TRANSSHIPMENT AND COUNTRY OF ORIGIN RULES

AGENCY: Customs and Border Protection, Homeland Security.

ACTION: General notice.

SUMMARY: This document notifies the public of foreign entities which have been issued a penalty claim under section 592 of the Tariff Act of 1930, for certain violations of the customs laws. This list is authorized to be published by section 333 of the Uruguay Round Agreements Act.

DATES: This document notifies the public of the semiannual list for the 6-month period starting March 31, 2003, and ending September 30, 2003.

FOR FURTHER INFORMATION CONTACT: For information regarding any of the operational aspects, contact Gregory Olavsky, Fines, Penalties and Forfeitures Branch, Office of Field Operations, (202) 927-3119. For information regarding any of the legal aspects, contact Willem A. Daman, Office of Chief Counsel, (202) 927-6900.

SUPPLEMENTARY INFORMATION

BACKGROUND

Section 333 of the Uruguay Round Agreements Act (URAA)(Public Law 103-465, 108 Stat. 4809)(signed December 8, 1994), entitled Textile Transshipments, amended Part V of title IV of the Tariff Act of 1930 by creating a section 592A (19 U.S.C. 1592a), which authorizes the Secretary of the Treasury (and this authority has been delegated to the Secretary of Homeland Security and to the Commissioner of the Bureau of Customs and Border Protection) to publish in the Federal Register, on a semiannual basis, a list of the names of any producers, manufacturers, suppliers, sellers, exporters, or other persons located outside the Customs territory of the United States, when these entities and/or persons have been issued a penalty claim under section 592 of the Tariff Act, for certain violations of the customs laws, provided that certain conditions are satisfied.

The violations of the customs laws referred to above are the following: (1) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products; (2) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry into the Customs territory of the United States of textile or apparel products; (3) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labeled as to country of origin or source and (4) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to imports of textile or apparel products.

If a penalty claim has been issued with respect to any of the above violations, and no petition in response to the claim has been filed, the name of the party to whom the penalty claim was issued will appear on the list. If a petition or supplemental petition for relief from the penalty claim is submitted under 19 U.S.C. 1618, in accord with the time periods established by sections 171.2 and 171.61, Customs Regulations (19 CFR 171.2, 171.61) and the petition is subsequently denied or the penalty is mitigated, and no further petition, if allowed, is received within 60 days of the denial or allowance of mitigation, then the administrative action shall be deemed to be final and administrative remedies will be deemed to be exhausted. Consequently, the name of the party to whom the penalty claim was issued will appear on the list. However, provision is made for an appeal to the Secretary of the Treasury (now delegated to the Secretary of Homeland Security) by the person named on the list, for the removal of its name from the list. If the Secretary finds that such person or entity has not committed any of the enumerated violations for a period of not less than 3 years after the date on which the person or entity's name was published, the name will be removed from the list as of the next publication of the list.

REASONABLE CARE REQUIRED

Section 592A also requires any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labeling that are accurate as to its origin. Reliance solely upon information regarding the imported product from a person named on the list is clearly not the exercise of reasonable care. Thus, the textile and apparel importers who have some commercial relationship with one or more of the

listed parties must exercise a degree of reasonable care in ensuring that the documentation covering the imported merchandise, as well as its packaging and labeling, is accurate as to the country of origin of the merchandise. This degree of reasonable care must involve reliance on more than information supplied by the named party.

In meeting the reasonable care standard when importing textile or apparel products and when dealing with a party named on the list published pursuant to section 592A of the Tariff Act of 1930, an importer should consider the following questions in attempting to ensure that the documentation, packaging, and labeling is accurate as to the country of origin of the imported merchandise. The list of questions is not exhaustive but is illustrative.

- 1) Has the importer had a prior relationship with the named party?
- 2) Has the importer had any detentions and/or seizures of textile or apparel products that were directly or indirectly produced, supplied, or transported by the named party?
- 3) Has the importer visited the company's premises and ascertained that the company has the capacity to produce the merchandise?
- 4) Where a claim of an origin conferring process is made in accordance with 19 CFR 102.21, has the importer ascertained that the named party actually performed the required process?
- 5) Is the named party operating from the same country as is represented by that party on the documentation, packaging or labeling?
- 6) Have quotas for the imported merchandise closed or are they nearing closing from the main producer countries for this commodity?
- 7) What is the history of this country regarding this commodity?
- 8) Have you asked questions of your supplier regarding the origin of the product?
- 9) Where the importation is accompanied by a visa, permit, or license, has the importer verified with the supplier or manufacturer that the visa, permit, and/or license is both valid and accurate as to its origin? Has the importer scrutinized the visa, permit or license as to any irregularities that would call its authenticity into question?

The law authorizes a semiannual publication of the names of the foreign entities and/or persons. On October 15, 2002, Customs published a Notice in the Federal Register (67 FR 63729) which identified 3 (three) entities which fell within the purview of section 592A of the Tariff Act of 1930

592A LIST

For the period ending March 30, 2003, Customs has identified 3 (three) foreign entities that fall within the purview of section 592A of the Tariff Act of 1930. This list reflects no new entities and no removals to the 3 entities named on the list published on October 15, 2002. The parties on the current list were assessed a penalty claim under 19 U.S.C. 1592, for one or more of the four above-described violations. The administrative penalty action was concluded against the parties by one of the actions noted above as having terminated the administrative process.

The names and addresses of the 3 foreign parties which have been assessed penalties by Customs for violations of section 592 are listed below pursuant to section 592A. This list supersedes any previously published list. The names and addresses of the 3 foreign parties are as follows (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the Federal Register):

Everlite Manufacturing Company, P.O. Box 90936, Tsimshatsui, Kowloon, Hong Kong (3/01).

Fairfield Line (HK) Co. Ltd., 60-66 Wing Tai Commer., Bldg. 1/F, Sheung Wan, Hong Kong (3/01).

G.P. Wedding Service Centre, Lee Hing Industrial Building, 10 Cheung Yue Street 11th Floor, Cheung Sha Wan, Kowloon, Hong Kong (10/00).

Any of the above parties may petition to have its name removed from the list. Such petitions, to include any documentation that the petitioner deems pertinent to the petition, should be forwarded to the Assistant Commissioner, Office of Field Operations, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

Dated: May 14, 2003.

JAYSON P. AHERN
*Assistant Commissioner,
Office of Field Operations.*

[Published in the Federal Register, May 23, 2003 (68 FR 28238)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, May 21, 2003.

The following documents of the Bureau of Customs and Border Protection (“CBP”), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

SANDRA L. BELL,
(for Michael T. Schmitz, Assistant Commissioner,
Office of Regulations and Rulings.)

PROPOSED MODIFICATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF WOOD FRAME MIRRORS

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

ACTION: Notice of proposed modification of a tariff classification ruling letter and revocation of any treatment relating to the classification of wood frame mirrors.

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

DATE: Comments must be received on or before July 7, 2003.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. 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 Joseph Clark at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, General Classification Branch, at (202) 572–8721.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs intends to modify a ruling letter relating to the tariff classification of certain wood frame mirrors. Although in this notice Customs is specifically referring to NY G88576, dated March 29, 2001, (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing 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 Customs during this notice period.

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

merchandise subsequent to the effective date of the final decision on this notice.

In NY G88576, Customs classified certain wood frame mirrors in sub-heading 9403.90.8080, HTSUS, which provides for "Other furniture and parts thereof: Parts: Other: Other."

It is now Customs position that the subject mirrors are classified in subheading 7009.92.50, HTSUS, which provides for "Glass mirrors, whether or not framed, including rear-view mirrors: Other: Framed: Over 929 cm in reflecting area."

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to modify NY G88576 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 966442 (Attachment B). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions that are contrary to the determination set forth in this notice. Before taking this action, consideration will be given to any written comments timely received.

Dated: May 16, 2003.

JOHN ELKINS,
(for Myles B. Harmon, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY
BUREAU OF CUSTOMS AND BORDER PROTECTION,
New York, NY, March 29, 2001.
CLA-2-94:RR:NC:SP:233 G88576
Category: Classification
Tariff No. 9403.50.9080 and 9403.90.8080

MR. PAUL VROMAN
DANZAS AEI CUSTOMS BROKERAGE SERVICES
*29200 Northwestern Highway
Southfield, MI 48034*

Re: The tariff classification of wood framed mirrors and dressers from Canada.

DEAR MR. VROMAN:

In your letter dated March 22, 2001, on behalf of Durham Furniture, you requested a ruling on tariff classification.

The merchandise to be imported consists of wood framed glass mirrors designed for attachment to dressers and chests. All of the mirrors have a reflecting area greater than 1000 sq. cm. The mirrors have steel rods on the back as they are designed to be attached to the dressers. The dressers and chests on which the mirrors are attached are made of wood and are designed for use in the bedroom. You have requested the tariff classification for the mirrors when they are imported under two scenarios: 1) when the mirror is sold and imported with the dresser; and 2) when the mirror is imported by itself. Pictures of the mirrors and dressers have been submitted with your request.

The applicable subheading for the mirror, when imported with the dresser, will be 9403.50.9080, Harmonized Tariff Schedule of the United States (HTS), which provides for other furniture and parts thereof: wooden furniture of a kind used in the bedroom: other: other, other. The rate of duty will be free.

The applicable subheading for the mirror, when imported by itself, will be 9403.90.8080, HTS, which provides for other furniture and parts thereof: parts: other: other, other. The rate of duty will be free.

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

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

ROBERT B. SWIERUPSKI,

Director,

National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
Washington, DC.

CLA-2 RR:CR:GC 966446 RSD
Category: Classification
Tariff No. 7009.92.50

MR. PAUL VROMAN
DANZAS AEI CUSTOMS BROKERAGE SERVICES
*29200 Northwestern Highway
Southfield, MI 48034*

Re: Modification of NY G88576; Mirrors.

DEAR MR. VROMAN:

This letter is with respect to NY G88576 dated March 29, 2001, which was issued to you on behalf of your client, Durham Furniture, by the Director, National Commodity Specialist Division with regard to the classification under the Harmonized Tariff Schedule of the United States, (HTSUS), of certain wood frame mirrors. We have reviewed the classification in NY G88576 and have determined that it is incorrect. This ruling sets forth the correct classification.

Facts:

The imported merchandise consists of wood framed glass mirrors designed for attachment to dressers and chests. All of the mirrors have a reflecting area greater than 1000 sq. cm. The mirrors have steel rods on the back as they are designed to be attached to the dressers. The dressers and chests on which the mirrors are attached are made of wood and are designed for use in the bedroom. You requested the tariff classification of the mirrors when they are imported under two scenarios: 1) when the mirror is imported with the dresser; and 2) when the mirror is imported by itself. Pictures of the mirrors and dressers were submitted with your request. Customs classified the mirror, when imported with a dresser or chest under subheading 9403.50.90, HTSUS, which provides for "Other furniture and parts thereof: Wooden furniture of a kind used in the bedroom: Other: Other." Customs determined the applicable subheading for the mirror, when imported separately, to be 9403.90.80, HTSUS, which provides for: "Other furniture and parts thereof: Parts: Other: Other." As stated above, we have reviewed the classification of the mirror imported separately and have determined that it is incorrect.

Issue:

What is the proper classification of the subject mirrors?

Law and Analysis:

The General Rules of Interpretation (GRI's) governs classification of goods under the HTSUS. GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes. Merchandise that cannot be classified in accordance with GRI 1 is to be classified in accordance with subsequent GRI's taken in order.

The provisions under consideration are as follows:

7009	Glass mirrors, whether or not framed, including rear view mirrors:
7009.92	Framed:
7009.92.50	Over 929 cm in reflecting area
*	* * * * *
9403	Other furniture and parts thereof:
9403.50	Wooden furniture of a kind used in the bedroom:
	Other:
9403.50.90	Other

Additional U.S. Rule of Interpretation 1(c) states that “[i]n the absence of special language or context which otherwise requires * * * a provision for parts of an article covers products solely or principally used as a part of such articles but a provision for ‘parts’ or ‘parts and accessories’ shall not prevail over a specific provision for such part or accessory * * *.”

Pursuant to Additional U.S. Rule of Interpretation 1(c), we find that the subject goods are provided for in the provision for glass mirrors in heading 7009, HTSUS. They are classified in subheading 7009.92.50, HTSUS. This determination is consistent with NY J81094, dated March 3, 2003, which held that mirrors that are to be attached to dressers after their importation are classified under subheading 7009.92.50, HTSUS.

Accordingly, pursuant to Additional U.S. Rule of Interpretation 1(c), we find that the mirrors are provided for in subheading 7009.92 50, HTSUS.

Holding:

The subject mirrors that are imported separately are provided for in heading 7009, HTSUS, and are classified in subheading, 7009.92.50, HTSUS, as: “Glass mirrors, whether or not framed, including rear-view mirrors: Framed: Over 929 cm in reflecting area.”

Effect on Other Rulings:

NY G88576 dated March 29, 2001 is modified with respect to the subject mirrors imported separately. The other classification for the mirrors imported with dressers specified in NY G88576 remains in effect.

MYLES B. HARMON,
Director,
Commercial Rulings Division.