

# Bureau of Customs and Border Protection

## *CBP Decisions*

[**CBP Decision 03-35**]

### **CUSTOMS ACCREDITATION OF SGS NORTH AMERICA, INC. AS A COMMERCIAL LABORATORY**

**AGENCY:** Customs and Border Protection, Department of Homeland Security

**ACTION:** Notice of Accreditation of SGS North America, Inc. of Sulfur, Louisiana, as a Commercial Laboratory.

**SUMMARY:** SGS North America, Inc. of Sulfur, Louisiana has applied to Customs and Border Protection under Part 151.12 of the Customs Regulations for accreditation as a commercial laboratory to analyze petroleum products under Chapter 27 and Chapter 29 of the Harmonized Tariff Schedule of the United States (HTSUS). Customs has determined that this company meets all of the requirements for accreditation as a commercial laboratory. Specifically, SGS North America, Inc. has been granted accreditation to perform the following test methods at their Sulfur, Louisiana site: (1) Water in Petroleum Products and Bituminous Materials by Distillation, ASTM D95; (2) API Gravity of Crude Petroleum and Petroleum Products by Hydrometer, ASTM D287; (3) Sediment in Crude Oils by Extraction, ASTM D473; (4) Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer, ASTM D1298; (5) Water in Crude Oil by Distillation, ASTM D4006; (6) Water and Sediment in Crude Oil by the Centrifuge Method, ASTM D4007; and (7) Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy, ASTM D4294. Therefore, in accordance with Part 151.12 of the Customs Regulations, SGS North America, Inc. of Sulfur, Louisiana is hereby accredited to analyze the products named above.

**LOCATION:** SGS North America, Inc. accredited site is located at: 4701 East Napoleon (Hwy 90), Sulfur, LA 70663

**EFFECTIVE DATE:** December 16, 2003

**FOR FURTHER INFORMATION CONTACT:** Arlene Faustermann, Science Officer, Laboratories and Scientific Services, Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500 North, Washington, D.C. 20229, (202) 344-1060.

Dated: December 16, 2003

IRA S. REESE,  
*Executive Director,*  
*Laboratories and Scientific Services.*

[Published in the Federal Register, December 24, 2003 (68 FR 74628)]

**[CBP Decision 03-36]**

**CUSTOMS ACCREDITATION OF  
SEA, Ltd.  
AS A COMMERCIAL LABORATORY**

**AGENCY:** Customs and Border Protection, Department of Homeland Security

**ACTION:** Notice of Accreditation of SEA, Ltd., of Columbus, Ohio, as a Commercial Laboratory.

**SUMMARY:** SEA, Ltd. of Columbus, Ohio has applied to Customs and Border Protection under Part 151.12 of the Customs Regulations for accreditation as a commercial laboratory to analyze paraffin wax in candles under Chapter 34 of the Harmonized Tariff Schedule of the United States (HTSUS). Customs has determined that this company meets all of the requirements for accreditation as a commercial laboratory. Specifically, SEA, Ltd. has been granted accreditation to perform the following test methods at their Columbus, Ohio site: (1) Quantitation of Paraffin in Beeswax and Other Waxes By High Temperature Capillary Gas Chromatography, USCL (United States Customs Laboratory) test method 34-07; and (2) Quantitative Analysis of Paraffin in Beeswax By Column Chromatography, USCL (United States Customs Laboratory) test method 34-08. Therefore, in accordance with Part 151.12 of the Customs Regulations, SEA, Ltd. of Columbus, Ohio is hereby accredited to analyze the products named above.

**LOCATION:** SEA, Ltd.'s accredited site is located at: 7349 Worthington - Galena Rd., Columbus, Ohio 43085

**EFFECTIVE DATE:** December 16, 2003

**FOR FURTHER INFORMATION CONTACT:** Arlene Faustermann, Science Officer, Laboratories and Scientific Services, Customs

and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500 North, Washington, D.C. 20229, (202) 344-1060.

Dated: December 16, 2003

IRA S. REESE,  
*Executive Director,  
Laboratories and Scientific Services.*

[Published in the Federal Register, December 24, 2003 (68 FR 74627)]



## *General Notices*

### **DEPARTMENT OF HOMELAND SECURITY**

#### **Customs and Border Protection**

#### **Agency Information Collection Activities: Proposed Collection; Comments Requested**

*Action:* 30-day notice of information collection under review: Arrival Record, Form I-94AOT.

The Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** at 68 FR 55408 on September 25, 2003, allowing for a 60-day public review and comment period. No comments were received by DHS.

A second notice was published in the **Federal Register** at 68 FR 69713 on December 15, 2003, allowing for an additional 30 days for public review and comment. The second notice incorrectly listed Immigration and Customs Enforcement (ICE) as the DHS component responsible for this information collection. The second notice should have listed CBP as the DHS component responsible for this information collection. Accordingly, the public has 30 days until January 21, 2004 to submit comments. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Homeland Security Officer, 725-17th Street, NW., Suite 10102, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Arrival Record.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I-94AOT, U.S. Customs and Border Protection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households. The information collected is captured electronically as part of a pilot program established by the legacy Immigration and Naturalization Service in cooperation with two participating carriers to streamline document handling and data processing. The information collected will be used by DHS to document an alien's arrival and departure to and from the United States and may be evidence of registration under certain provisions of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 3 minutes (.05 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,250 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202-514-3291, Director, Regulations and Forms Services Division, Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the esti-

mated burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Steve Cooper, PRA Clearance Officer, Department of Homeland Security, Office of Chief Information Officer, Regional Office Building 3, 7th and D Streets, SW., Suite 44636-26, Washington, DC 20202.

Dated: December 17, 2003.

**Richard A. Sloan,**

*Department Clearance Officer, Department of Homeland Security.*

[FR Doc. 03-31449 Filed 12-19-03; 8:45 am]

**BILLING CODE 4410-10-M**

[Published in the Federal Register, December 22, 2003 (68 FR 71119)]

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## DEPARTMENT OF HOMELAND SECURITY

### Customs and Border Protection

#### **Agency Information Collection Activities: Proposed Collection; Comment Request**

*Action:* 30-day notice of information collection under review: Application—Checkpoint Pre-enrolled Access Lane; Form I-866.

The Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP), has submitted the following information collection request in the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on September 25, 2003 at 68 FR 55407. The notice allowed for a 60-day public comment period. The DHS has received no public comment on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 20, 2004. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Department of Homeland Security Desk Officer, Room 10235, 725-17th Street, NW., Washington, DC 20530. You may fax comments to the OMB at 202-395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection*: Extension of a currently approved collection.

(2) *Title of the Form/Collection*: Application-Checkpoint Pre-enrolled Access Lane.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection*: Form I-866. U.S. Customs and Border Protection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract*: Primary individual or households. The information collected on this form will be used by the DHS to determine eligibility for participation in the Checkpoint Pre-enrolled Access Lane (PAL) program for persons and vehicles at immigration checkpoints within the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 12,500 responses at 32 minutes (53 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection*: 6,625 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Regulations and Forms Services Division, Department of Homeland Security, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Steve Cooper, PRA Clearance Officer, Department of Homeland Security, Office of

the Chief Information Officer, Regional Office Building 3, 7th and D Streets, SW., Suite 4636-26, Washington, DC 20202.

Dated: December 12, 2003.

**Richard A. Sloan,**

*Department Clearance Officer, Department of Homeland Security,  
U.S. Immigration and Custom Enforcement.*

[FR Doc. 03-31286 Filed 12-18-03; 8:45 am]

**BILLING CODE 4410-10-M**

[Published in the Federal Register, December 19, 2003 (68 FR 70830)]

DEPARTMENT OF HOMELAND SECURITY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, DC, December 23, 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,  
*Acting Assistant Commissioner,  
Office of Regulations and Rulings.*

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**PROPOSED MODIFICATION OF ONE RULING LETTER AND  
REVOCATION OF TREATMENT RELATING TO THE TARIFF  
CLASSIFICATION OF CERTAIN KNIT CAMISOLES**

**AGENCY:** Bureau of Customs and Border Protection; Department of Homeland Security.

**ACTION:** Notice of proposed modification of one tariff classification ruling letter and revocation of treatment relating to the classification of certain knit camisoles.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), this notice advises interested parties that Customs and Border Protection (CBP) intends to modify one ruling letter relating to the tariff classification of certain knit camisoles under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). CBP also 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 February 6, 2004.

**ADDRESS:** Written comments are to be addressed to 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 reviewed at 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) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Kelly Herman, Textiles Branch: (202) 572-8713.

**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 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 modify one ruling letter pertaining to the tariff classification of certain knit camisoles. Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter (NY) J81984, dated April 3, 2003 (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., 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, Customs intends to revoke any treatment previously accorded by CBP 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, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise or the importer's or CBP's previous interpretation of the HTSUSA. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substan-

tially 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 J81984, CBP ruled a tank-styled camisole constructed of fine rib knit 100% cotton fabric (Style 276840) and a camisole with ¼" spaghetti shoulder straps constructed with a fine rib knit 100% cotton fabric (Style 176440) were classifiable in subheading 6109.10.0060, HTSUSA, which provides for "tank tops . . . knitted or crocheted: Of cotton: women's." A woman's top constructed from 84% polyester, 16% spandex knit fabric (Style J56530) was classified in subheading 6114.30.1020, HTSUS. However, Style J56530 is not a subject of this modification. Since the issuance of that ruling, CBP has received from the importer additional information not presented at the time of the ruling request regarding how the garments are purchased, sold, used and known. Accordingly, we have reviewed the classification of these items and have determined that the cited ruling is in error as it pertains to certain knit camisoles. We have determined that the physical features of the garments, the design of the garments, the exclusive environment of sale to the underwear department of retailers, the sale of some of the garments with matching underwear, the garments recognition in the trade as underwear and the ultimate purchaser's expectations causes them not to be specifically described as tank tops. Rather, they are classified in subheading 6109.10.0037, HTSUSA, which provides for women's or girls' knit underwear. Accordingly, the articles are properly classified in subheading 6109.10.0037, HTSUSA, the provision for "T-shirts, singlets, tank tops, and similar garments, knitted or crocheted: Of cotton, Women's or girls' underwear."

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify NY J81984 and to revoke or modify any other ruling not specifically identified, to reflect the proper classification of certain knit camisoles according to the analysis contained in proposed Headquarters Ruling Letter (HQ) 966807, set forth as 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 merchandise. Before taking this action, consideration will be given to any written comments timely received.

**DATED:** December 18, 2003

Gail A. Hamill for MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

Attachments

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

## [ATTACHMENT A]

NY J81984

April 3, 2003

CLA-2-61:RR:NC:WA:361 NY J81984

CATEGORY: Classification

TARIFF NO.: 6109.10.0060; 6114.30.1020

MR. JORGE ZELEDON  
VP OPERATIONS  
O'BBI - O'BRYAN BROTHERS, INC.  
4256 West Belmont Ave.  
Chicago, Illinois 60641-4693

RE: The tariff classification of three women's knit garments from Sri Lanka.

DEAR MR. ZELEDON:

In your letter dated March 7, 2003, you requested a classification ruling for three women's knit garments. The samples are being returned, as requested.

Style 176040 is a woman's tank top constructed from 100 percent cotton knit fabric. The tank top has 1- $\frac{3}{4}$  inch shoulder straps, a u-shaped neckline in front and back, and a plain, hemmed bottom. The armholes and neckline have a satin trim. The front neckline has a decorative lace-like insert.

Style 176440 is a woman's tank top constructed from 100 percent cotton knit fabric. The tank top has  $\frac{1}{4}$  inch elasticized shoulder straps, a u-shaped neckline in front and back, and a plain, hemmed bottom. The straps, armhole trim, and back neckline trim are constructed from the same elasticized fabric. The front neckline has a decorative lace-like insert.

Style J56530 is a woman's top constructed from 84 percent polyester, 16 percent spandex knit fabric. The top has  $\frac{1}{4}$  inch adjustable shoulder straps, a u-shaped neckline in front and a plain, hemmed bottom. The top also has a built in molded cup bra with an underwire.

The applicable subheading for styles 176040 and 176440 will be 6109.10.0060, Harmonized Tariff Schedule of the United States (HTS), which provides for tank tops . . . knitted or crocheted: Of cotton: women's. The duty rate will be 17% ad valorem.

The applicable subheading for style J56530 will be 6114.30.1020, Harmonized Tariff Schedule of the United States (HTS), which provides for other garments knitted or crocheted: Of man-made fibers: Tops: women's. The duty rate will be 28.4% ad valorem.

Styles 176040 and 176440 fall within textile category designation 339; style J56530 falls within textile category designation 639. Based upon international textile trade agreements products of Sri Lanka are subject to quota and the requirement of a visa.

The designated textile and apparel categories and their quota and visa status are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most cur-

rent information, we suggest that you check, close to the time of shipment, the U.S. Customs Service Textile Status Report, an internal issuance of the U.S. Customs Service, which is available at the Customs Web site at [www.customs.gov](http://www.customs.gov). In addition, the designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected and should also be verified at the time of shipment.

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 Angela De Gaetano at 646-733-3052.

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

[ATTACHMENT B]

HQ 966807  
CLA-2 RR:CR:TE 966807 KSH  
TARIFF NO.: 6109.10.0037

GAIL T. CUMINS, ESQ.  
SHARRETT, PALEY, CARTER & BLAUVELT, P.C.  
*Seventy-five Broad Street*  
*New York, NY 10004*

RE: Modification of New York Ruling Letter (NY) J81984, dated April 3, 2003; Classification of certain knit camisoles

DEAR MS. CUMINS:

This is in response to your letter of September 5, 2003, in which you request reconsideration of New York Ruling Letter (NY) J81984, issued to your client O'Bryan Brothers Inc., on April 3, 2003, concerning, in part, the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of a tank-styled camisole constructed of fine rib knit 100% cotton fabric and a camisole with spaghetti shoulder straps constructed with a fine rib knit 100% cotton fabric. The articles were classified in subheading 6109.10.0060, HTSUSA, which provides for "tank tops . . . knitted or crocheted: Of cotton: women's." Through counsel, you have provided additional information that was not submitted at the time of the ruling request regarding how the garments are sold, used and known. Upon your request we have reviewed NY J81984 and, with respect to these two garments, found it to be in error. Therefore, this ruling modifies NY J81984 as it pertains to the classification of the aforementioned garments.

FACTS:

Two samples were submitted in conjunction with your request for reconsideration. The first sample is identified as Style 176040. It is a tank-styled camisole constructed with a fine rib knit 100% cotton fabric. The garment

features elasticized capping on the rounded rear neckline, shoulder straps and armholes, a lace-like insert at the V-neck front, side seams, 1 3/4" shoulder straps and a hemmed bottom.

The second sample is identified as Style 176440. It is a camisole constructed with a fine rib knit 100% cotton fabric. The garment features elasticized spaghetti shoulder straps 1/4" wide that extend to form the edging on the armholes, a lace-like trim at the V-neck front, side seams and a hemmed bottom.

You submit that the physical characteristics of the garments, the environment of sale and advertising and marketing material support the contention that the garments are underwear.

ISSUE:

Whether the knit camisole garments are classifiable as underwear under subheading 6109.10.0037, HTSUSA, or as tank tops under subheading 6109.10.0060, HTSUSA?

LAW AND ANALYSIS:

Classification of goods under the HTSUSA 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 Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation at the international level. While neither legally binding nor dispositive, the EN provide a commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings.

The competing provisions are subheading 6109.10.0037, HTSUSA, which provides for underwear garments falling within the purview of women's or girls' cotton knit T-shirts, singlets, tank tops, and similar garments, and subheading 6109.10.0060, HTSUSA, which provides for women's non-underwear knit cotton tank tops.

In *St. Eve Int'l Inc. v. United States*, 267 F. Supp. 2d 1371 (2003), the Court of International Trade dealt with the classification of camisoles as underwear garments in subheading 6109.10.0037, HTSUSA or as tank tops in subheading 6109.10.0060, HTSUSA. The Court gave consideration to the general criteria for classification set forth in *United States v. Carborundum Company*, 63 CCPA 98, C.A.D. 1172, 536 F. 2d 373 (1976), cert. denied, 429 U.S. 979 (hereinafter *Carborundum*) to determine that the camisoles at issue therein were properly classified as undergarments of subheading 6109.10.0037, HTSUSA. Those criteria include: the general physical characteristics of the article, the expectation of the ultimate purchaser, channels of trade, environment of sale (accompanying accessories, manner of advertisement and display), use in the same manner as merchandise which defines the class, economic practicality of so using the import, and recognition in the trade of this use. Among the detailed findings set forth by the court were the reputation of the importer in the trade for underwear, intimate apparel, and sleepwear; the camisoles are marketed as underwear; stores offer the camisoles for sale in their lingerie and intimate apparel department; the camisoles are not offered for sale as sportswear; the camisoles are sold year round; the camisoles are offered in the lingerie sections of retailer's cata-

logues and; the camisoles are sold with matching underwear. *Carborundum, supra*. The court determined that the camisoles are designed, knit, stitched together, imported, consigned and sold principally in the women's intimates or underwear departments of walk-in retail stores and classified the garments in subheading 6109.10.0037, HTSUSA, as undergarments.

You present the following persuasive factors in support of classification of the camisoles at issue as underwear: (1) your client is exclusively engaged in the marketing and distribution of underwear and sleepwear; (2) the camisoles are only sold to the intimate apparel buyers of large department and chain stores and displayed in these retail establishments alongside other intimate apparel articles; (3) the garments are only offered and sold as underwear; (4) the camisoles are sold throughout the year; (5) advertisements for the camisoles appear alongside other underwear garments and; (6) some of the camisoles are sold with matching underwear.<sup>1</sup>

Based upon the evidence presented and the factors set forth in *St Eve, supra*, the camisoles are classified in subheading 6109.10.0037, HTSUSA, which provides for "T-shirts, singlets, tank tops and similar garments, knitted or crocheted: Of cotton: Women's or girls': Underwear."

**HOLDING:**

NY J81984, dated April 3, 2003, is hereby modified.

The camisoles are classified in subheading 6109.10.0037, HTSUSA, as "T-shirts, singlets, tank tops and similar garments, knitted or crocheted: Of cotton: Women's or girls': Underwear." The General Column 1 Rate of Duty is 17 percent *ad valorem* and the textile category is 352.

The designated textile and apparel category may be subdivided into parts. If so, the visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available we suggest your client check, close to the time of shipment, the Textile Status Report for Absolute Quotas, available on the CBP website at [www.cbp.gov](http://www.cbp.gov).

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

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

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<sup>1</sup>As noted above, information regarding how the garments are used, sold and known was not presented at the time of the ruling request. NY J81984 would have been revoked by operation of law as a result of the decision in *St. Eve International Inc., supra*, had such information been provided and the garments continued to be classified in subheading 6109.10.0060, HTSUS.