

Bureau of Customs and Border Protection

General Notices

COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 11 2003)

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

SUMMARY: The copyrights, trademarks, and trade names recorded with U.S. Customs and Border Protection during the month of November 2003. The last notice was published in the CUSTOMS BULLETIN on December 17, 2003.

Corrections or updates may be sent to Department of Homeland Security, U.S. Customs and Border Protection, Office of Regulations and Rulings, IPR Branch, 1300 Pennsylvania Avenue, N.W., Mint Annex, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: George Frederick McCray, Esq., Chief, Intellectual Property Rights Branch, (202) 572-8710.

Dated: December 11, 2003.

GEORGE FREDERICK MCCRAY, ESQ.,
Chief,
Intellectual Property Rights Branch

U.S. CUSTOMS SERVICE
IPR RECORDATIONS ADDED IN NOVEMBER 2003

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DETAIL 1

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TMM OR MSK	OWNER NAME	RES
COPO300150	20031103	20231103	BEYBLADE (STYLE GUIDE)	D-RIGHTS, INC.	N
COP0300151	20031107	20231107	MR. WONDERFUL	PRO-MOTIONS NOVELTY COMPANY INC.	N
SUBTOTAL RECORDATION TYPE 2					
TKK0300855	20031103	20050829	COCO RICO	COCO RICO, INC.	N
TKK0300856	20031103	20121110	COBRA	COBRA GOLF INCORPORATED	N
TKK0300857	20031103	20110526	TITLEIST(STYLIZED)	ACUSHNET COMPANY	N
TKK0300858	20031105	20070916	KRAZY GLUE	TOAGOSEI CO., LTD.	N
TKK0300859	20031105	20050909	KRAZY	TOAGOSEI CO., LTD.	N
TKK0300860	20031105	20050808	KRAZY	TOAGOSEI CO., LTD.	N
TKK0300861	20031105	20060727	HANDING MAN DESIGN	TOAGOSEI CO., LTD.	N
TKK0300862	20031105	20050321	INSTANT KRAZY GLUE (STYLIZED)	TOAGOSEI CO., LTD.	N
TKK0300863	20031105	20050531	PILSNER URQUELL (STYLIZED LETTERING)	PLZENSKY PRAZDROJ, A.S.	N
TKK0300864	20031105	20130408	PILSNER URQUELL (STYLIZED LETTERING)	PLZENSKY PRAZDROJ, A.S.	N
TKK0300865	20031105	20031123	PILSNER URQUELL	PLZENSKY PRAZDROJ, A.S.	N
TKK0300866	20031105	20090323	THE LIMITED	LIMCO, INC.	N
TKK0300867	20031105	20081025	THE LIMITED	LIMCO, INC.	N
TKK0300868	20031107	20080512	ZEN-NOH	MALLACE INT'L TRADING CO., INC.	N
TKK0300869	20031107	20071216	IZ GA AND DESIGN	LARRY C. CUNDIEFF	N
TKK0300870	20031107	20070408	HOVLE OFFICIAL P	THE UNITED STATES PLAYING CARD	N
TKK0300871	20031107	20050302	HOVLECK & DESIGN	THE UNITED STATES PLAYING CARD	N
TKK0300872	20031107	20110516	DESIGN	THE UNITED STATES PLAYING CARD	N
TKK0300873	20031107	20110521	DESIGN	THE UNITED STATES PLAYING CARD	N
TKK0300874	20031107	20110521	DESIGN	THE UNITED STATES PLAYING CARD	N
TKK0300875	20031107	20130729	HX RED AND DESIGN	CALLAWAY GOLF COMPANY	N
TKK0300876	20031107	20101218	FUSTON	CALLAWAY GOLF COMPANY	N
TKK0300877	20031107	20120811	RONALD MCDONALD HOUSE (SERVICE MARK)	MCDONALD'S CORPORATION	N
TKK0300878	20031107	20130225	NOKIA	NOKIA CORPORATION	N
TKK0300879	20031107	20130121	NOKIA	NOKIA CORPORATION	N
TKK0300880	20031107	20131115	DR. SCHOLL'S AND DESIGN	PLOUGH, INC.	N
TKK0300881	20031120	20120115	VIP+	PFS RESEARCH FOUNDATION, INC.	N
TKK0300882	20031120	20120625	BUD ORR	WORR GAMES PRODUCTS, INC.	N
TKK0300883	20031120	20120723	WGP & DESIGN (SERVICE MARK)	WORR GAMES PRODUCTS, INC.	N
TKK0300884	20031120	20120910	AUTOCOCKER	WORR GAMES PRODUCTS, INC.	N
TKK0300885	20031120	20121112	COCKER	WORR GAMES PRODUCTS, INC.	N
TKK0300886	20031120	20121224	BLACK MAGIC	WORR GAMES PRODUCTS, INC.	N
TKK0300887	20031120	20130617	WORRGAME (SERVICE MARK)	WORR GAMES PRODUCTS, INC.	N
TKK0300888	20031120	20130615	PLANET HOLLYWOOD	PLANET HOLLYWOOD (REGION IV)	N
TKK0300889	20031120	20130513	NEW YORK JEANS	LERNCO, INC.	N
TKK0300890	20031120	20131008	ELLE	HACHETTE FILIPACCHI PRESSE	N
TKK0300891	20031120	20130713	CHRISTIAN DIOR	CHRISTIAN DIOR COUTURE, S.A.	N
TKK0300892	20031120	20130713	NEW YORK & COMPANY	CHRISTIAN DIOR COUTURE, S.A.	N
TKK0300893	20031120	20121008	BLUE LABEL	LERNCO, INC.	N
TKK0300894	20031126	20130727	CHLOE PLAYER SYMBOL	SR HOLDINGS, INC.	N
TKK0300895	20031126	20070415	CHLOE	PRL USA HOLDINGS INC.	N
TKK0300896	20031126	20070415	RALPH	PRL USA HOLDINGS INC.	N
TKK0300897	20031126	20070415	RALPH LAUREN	PRL USA HOLDINGS INC.	N
TKK0300898	20031126	20070707	FOLD	PRL USA HOLDINGS INC.	N

BUREAU OF CUSTOMS AND BORDER PROTECTION

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IPR RECORDATIONS ADDED IN NOVEMBER 2003

PAGE
DETAIL

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TMN OR MSK	OWNER NAME	RES
THK0300899	20031128	20120709	VENUS	GILLETTE COMPANY	N
THK0300900	20031128	20110911	VENUS	GILLETTE COMPANY	N
THK0300901	20031128	20130612	TRAC II	GILLETTE COMPANY	N
THK0300902	20031128	20050404	SENSOR EXCELL	GILLETTE COMPANY	N
THK0300903	20031128	20111020	SENSOR	GILLETTE COMPANY	N
THK0300904	20031128	20080605	PROBAK	THE GILLETTE COMPANY	N
THK0300905	20031128	20120723	MACH5 TURBO (STYLIZED)	THE GILLETTE COMPANY	N
THK0300906	20031128	20091214	MACH3 TURBO (STYLIZED)	THE GILLETTE COMPANY	N
THK0300907	20031128	20100926	INDICATOR	THE GILLETTE COMPANY	N
THK0300908	20031128	20060518	GOOD NEWS	THE GILLETTE COMPANY	N
THK0300909	20031128	20120402	EBS LOGO	THE GILLETTE COMPANY	N
THK0300910	20031128	20070908	DAISY	THE GILLETTE COMPANY	N
THK0300911	20031128	20120115	COOL BLUE	THE GILLETTE COMPANY	N
THK0300912	20031128	20080614	AIRA PLUS	THE GILLETTE COMPANY	N
THK0300913	20031128	20111216	SOFA	THE GILLETTE COMPANY	N
THK0300914	20031128	20070825	SOFA & DRI	THE GILLETTE COMPANY	N
THK0300915	20031128	20070825	SATIN CASE	THE GILLETTE COMPANY	N
THK0300916	20031128	20051212	SATIN CASE	THE GILLETTE COMPANY	N
THK0300917	20031128	20130311	POWER STRIPE	THE GILLETTE COMPANY	N
THK0300918	20031128	20080704	DRY IDEA	THE GILLETTE COMPANY	N
THK0300919	20031128	20050708	FOANY	THE GILLETTE COMPANY	N
THK0300920	20031128	20061123	PORTRAIT & SIGNATURE	THE GILLETTE COMPANY	N
THK0300921	20031128	20050919	OMNIMARK 2	THE GILLETTE COMPANY	N
THK0300922	20031128	20081013	GILLETTE IN DIAMOND	THE GILLETTE COMPANY	N
THK0300923	20031128	20060413	GILLETTE	THE GILLETTE COMPANY	N
THK0300924	20031128	20101106	PROCELL	THE GILLETTE COMPANY	N
THK0300925	20031128	20120910	STAGES	ORAL - B LABORATORIES	N
THK0300926	20031128	20121217	STAGES	ORAL - B LABORATORIES	N
THK0300927	20031128	20100807	ORAL - B LOGO	ORAL - B LABORATORIES	N
THK0300928	20031128	20120317	INDICATOR	ORAL - B LABORATORIES	N
THK0300929	20031128	20091207	CROSSACTION	ORAL - B LABORATORIES	N
THK0300930	20031128	20060206	ADVANTAGE	ORAL - B LABORATORIES	N
THK0300931	20031128	20100626	BRAUN (STYLIZED LETTERING)	BRAUN GMBH	N

SUBTOTAL RECORDATION TYPE 77

TOTAL RECORDATIONS ADDED THIS MONTH 79

**Annual User Fee for Customs Broker Permit and
National Permit; General Notice**

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

ACTION: Notice of due date for Customs broker user fee

SUMMARY: This is to advise Customs brokers that the annual fee of \$125 that is assessed for each permit held by a broker whether it may be an individual, partnership, association or corporation, is due by February 27, 2004. This announcement is being published to comply with the Tax Reform Act of 1986.

DATES: Due date for payment of fee: February 27, 2004.

FOR FURTHER INFORMATION CONTACT: Bruce Raine, Broker Management, (202) 927-0380.

SUPPLEMENTARY INFORMATION: Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub.L. 99-272) established that an annual user fee of \$125 is to be assessed for each Customs broker permit and National permit held by an individual, partnership, association or corporation. This fee is set forth in the Customs Regulations in section 111.96 (19 CFR 111.96).

Customs Regulations provide that this fee is payable for each calendar year in each broker district where the broker was issued a permit to do business by the due date which will be published in the Federal Register annually. Broker districts are defined in the General Notice published in the Federal Register, Volume 60, No. 187, September 27, 1995.

Section 1893 of the Tax reform Act of 1986 (Pub.L. 99-514) provides that notices of the date on which the payment is due for each broker permit shall be published by the Secretary of the Treasury in the Federal Register by no later than 60 days before such due date.

This document notifies brokers that for 2004, the due date of the user fee is February 27, 2004. It is expected that the annual user fees for brokers for subsequent years will be due on or about the twentieth of January of each year.

DATED: December 11, 2003

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

[Published in the Federal Register, December 18, 2003 (68 FR 70520)]

PROPOSED COLLECTION; COMMENT REQUEST**Accreditation of Commercial Testing Laboratories;
Approval of Commercial Gaugers**

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Accreditation of Commercial Testing Laboratories and Approval of Commercial Gaugers. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 17, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C., 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

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

Title: Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers

OMB Number: 1651-0053

Form Number: None

Abstract: The Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers are used by individuals or businesses desiring CBP approval to measure bulk products or to analyze importations. This recognition is required of businesses wishing to perform such work on imported merchandise.

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

Type of Review: Extension (without change)

Affected Public: Businesses

Estimated Number of Respondents: 250

Estimated Time Per Respondent: 60 minutes

Estimated Total Annual Burden Hours: 250

Estimated Total Annualized Cost on the Public: \$2,500

Dated: December 10, 2003

TRACEY DENNING
*Agency Clearance Officer,
Information Services Group.*

[Published in the Federal Register, December 17, 2003 (68 FR 70283)]

PROPOSED COLLECTION; COMMENT REQUEST

African Growth and Opportunity Act Certificate of Origin

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the African Growth and Opportunity Act Certificate of Origin. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 17, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C., 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

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

Title: African Growth and Opportunity Act Certificate of Origin

OMB Number: 1651-0082

Form Number: None

Abstract: The collection of information is required to implement the duty preference provisions of the African Growth and Opportunity Act (AGOA) to provide extension of duty-free treatment under the Generalized System of Preferences (GSP) to sensitive articles normally excluded from GSP duty treatment. It also provides for the entry of specific textile and apparel articles free of duty and free of any quantitative limits to the countries of sub-Saharan Africa.

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

Type of Review: Extension (without change)

Affected Public: Individuals, businesses.

Estimated Number of Respondents: 440

Estimated Time Per Respondent: 23 hours

Estimated Total Annual Burden Hours: 10,400

Estimated Total Annualized Cost on the Public: \$239,269

Dated: December 10, 2003

TRACEY DENNING,
Agency Clearance Officer,
Information Services Group.

[Published in the Federal Register, December 17, 2003 (68 FR 70284)]

PROPOSED COLLECTION; COMMENT REQUEST

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Procedures. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 17, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C., 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

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

Title: Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

OMB Number: 1651-0086

Form Number: N/A

Abstract: The collection of information is required to implement the duty preference provisions of the Continued Dumping and Subsidy Offset Act of 2000, by prescribing the administrative procedures under which anti-dumping and countervailing duties are assessed on imported products.

Current Actions: This submission is being submitted to extend the expiration date.

Type of Review: Extension

Affected Public: Businesses

Estimated Number of Respondents: 1

Estimated Time Per Respondent: 1 hour

Estimated Total Annual Burden Hours: 1

Estimated Total Annualized Cost on the Public: N/A

Dated: December 10, 2003

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Group.*

[Published in the Federal Register, December 17, 2003 (68 FR 70281)]

PROPOSED COLLECTION; COMMENT REQUEST

Drawback Process Regulations and Entry Collection Documents

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Drawback Process Regulations and Entry Collection Documents. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 17, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

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

Title: Drawback Process Regulations and Entry Collection Documents.

OMB Number: 1651-0075

Form Number: Forms CBP-7551, 7552, 7553,

Abstract: The information is to be used by CBP officers to expedite the filing and processing of drawback claims, while maintaining necessary enforcement information to maintain effective administrative oversight over the drawback program.

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

Type of Review: Extension (without change)

Affected Public: Businesses, Institutions

Estimated Number of Respondents: 8,150

Estimated Time Per Respondent: 11 hours

Estimated Total Annual Burden Hours: 90,000

Estimated Total Annualized Cost on the Public: \$3,098,405.86

Dated: December 10, 2003

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

PROPOSED COLLECTION; COMMENT REQUEST**Land Border Carrier Initiative Program**

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Land Border Carrier Initiative Program. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 17, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, Tel. (202) 927-1429.

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

Title: Land Border Carrier Initiative Program

OMB Number: 1651-0077

Form Number: N/A

Abstract: The Land Border Carrier Initiative Program is designed to prevent smugglers of illicit drugs from utilizing commer-

cial conveyances for their commodities, and to make participation in this program at certain, high-risk locations a condition for use of the Line Release method of processing repetitive entries of merchandise.

Current Actions: This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 1,050

Estimated Time Per Respondent: 5 hours

Estimated Total Annual Burden Hours: 5,250

Estimated Total Annualized Cost on the Public: 78,750.

Dated: December 10, 2003

TRACEY DENNING,
*Agency Clearance Officer;
Information Services Branch.*

[Published in the Federal Register, December 17, 2003 (68 FR 70282)]

PROPOSED COLLECTION; COMMENT REQUEST

United States-Caribbean Basin Trade Partnership Act

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the United States-Caribbean Basin Trade Partnership Act. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 17, 2004, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C., 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The

comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: United States-Caribbean Basin Trade Partnership Act

OMB Number: 1651-0083

Form Number: CBP-450

Abstract: The collection of information is required to implement the duty preference provisions of the United States-Caribbean Basin Trade Partnership Act.

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

Type of Review: Extension (without change)

Affected Public: Individuals, businesses.

Estimated Number of Respondents: 440

Estimated Time Per Respondent: 42.5 hours

Estimated Total Annual Burden Hours: 18,720

Estimated Total Annualized Cost on the Public: \$430,560

Dated: December 10, 2003

TRACEY DENNING
Agency Clearance Officer;
Information Services Group.

[Published in the Federal Register, December 17, 2003 (68 FR 70281)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, December 17, 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.*

**MODIFICATION OF A RULING LETTER AND REVOCATION
OF TREATMENT RELATING TO THE TARIFF CLASSIFI-
CATION OF A WOMEN'S COTTON KNIT GARMENT SIMI-
LAR TO A TANK TOP**

AGENCY: Bureau of Customs & Border Protection; Department of Homeland Security

ACTION: Notice of modification of a ruling letter and revocation of treatment relating to the tariff classification of a women's cotton knit garment similar to a tank top.

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 & Border Protection (CBP) is modifying one ruling relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a women's cotton knit tank-like garment. CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published on November 5, 2003, in Volume 37, Number 45, of the CUSTOMS BULLETIN. CBP received one comment in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after February 29, 2004.

FOR FURTHER INFORMATION CONTACT: Rebecca Hollaway, Textiles Branch, at (202) 572-8814.

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 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 Title VI, notice proposing to modify New York Ruling Letter (NY) J82451, dated April 9, 2003, and to revoke any treatment accorded to substantially identical merchandise was published in the November 5, 2003, CUSTOMS BULLETIN, Volume 37, Number 45. CBP received one comment.

In NY J82451, dated April 9, 2003, CPB classified a garment similar to a tank top under subheading 6109.10.0070, HTSUS, as an outerwear garment. However, we now find based on design, marketing and advertising information that the garment is correctly classified as underwear under subheading 6109.10.0037, HTSUS.

CBP received one comment pointing out that the "Holding" in proposed HQ 966602 incorrectly stated the quota category for the women's cotton underwear top as 339. The correct quota category for the merchandise is 352. The writer also suggested that we reference the recent decision, *St. Eve International v. United States*, 267 F. Supp. 2d 1371 (Ct. Int'l Trade, May 15, 2003), wherein the court held that camisoles sold with matching underpants were recognized, advertised and sold as underwear and were classified under subheading 6109.10.0037, HTSUS. That decision is now cited in HQ 966602.

As stated in the notice of proposed modification, this notice covers any rulings on the subject merchandise which may exist but which have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice

memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625 (c)(2)), as amended by Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. This treatment may, among other reasons, have been 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 HTSUS. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by this notice which was not identified in this notice may raise the rebuttable presumption of lack of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying NY J82451 and revoking any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 966602, which is attached to this document. Additionally, 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), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

DATED: December 8, 2003

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

Attachment

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
December 8, 2003
HQ 966602
CLA-2 RR:CR:TE 966602 RH
CATEGORY: Classification
TARIFF NOS.: 6109.10.0037; 6108.21.0010

ROBERT L. EISEN, ESQ.
CHRISTOPHER E. PEY, ESQ.
COUDERT BROTHERS, LLP
1114 Avenue of the Americas
New York, NY 10036-7703

RE: Modification of NY J82451, dated April 9, 2003; Women's Knitted Cotton Garment Similar to a Tank Top; Subheading 6109.10.0037, HTSUS; Subheading 6109.10.0070, HTSUS; Tank-like Top Not Readily Identifiable Upon Physical Examination as Outerwear or Underwear Determined to be Underwear based on Design, Marketing and Advertising Information

GENTLEMEN:

This is in reply to your letter of July 22, 2003, on behalf of Barian Shipping Company, Inc., and J.W.E. Silk, Inc., requesting reconsideration of New York Ruling Letter (NY) J82451, dated April 9, 2003.

In NY J82451, Customs and Border Protection (CBP) classified a woman's garment similar to a tank top under subheading 6109.10.0070 of the Harmonized Tariff Schedule of the United States (HTSUS) and a bikini panty under subheading 6108.21.0010, HTSUS.

In your opinion, CBP erroneously classified the tank-like top. You contend that it is properly classified under subheading 6109.10.0037, HTSUS. You concur with CPB's classification of the panty under subheading 6108.21.0010, HTSUS.

We note that you asked us to return the sample that you submitted. However, we would like to retain the sample for our records.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 1993), notice of the proposed revocation of NY J82451 was published on November 5, 2003, in Vol. 37, No. 45 of the CUSTOMS BULLETIN. CBP received one comment. A discussion of the comment will be set forth in the General Notice of Revocation and Modification, which will be published in the CUSTOMS BULLETIN on December 24, 2003.

FACTS:

In your letter, you describe the merchandise as follows:

The Style No. K2107048 camisole has a U-shaped front and rear neck line, rounded arm holes and approximately 1¼ inch shoulder straps, all outlined with decorative trim. It has a four-inch placket with a laced closure and a hemmed bottom. The garment is made of 100% cotton interlock fabric and is only made in one color, red with black trim, with a size range of small to large.

The garment at issue is imported together with a matching bikini panty made from the same fabric, with matching trim. The camisole is de-

signed, marketed and sold with the matching panty as an underwear set. The panty is also made of the identical 100% cotton interlock fabric and like the camisole only comes in one color, red with black trim.

The camisole and panty are not available separately, and will be imported together in sealed polybags, and will be shipped to the final purchaser in the same bags used to import them. . . .

ISSUE:

Is the garment similar to a tank top that is sold with a matching panty classifiable as underwear under subheading 6109.10.0037, HTSUS, or as outerwear under subheading 6109.10.0070, HTSUS?

LAW AND ANALYSIS:

Classification of goods under the HTSUS is governed by the General Rules of Interpretation (GRIs). 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 GRIs taken in order.

Additionally, the Explanatory Notes (ENs) to the Harmonized Commodity Description and Coding System constitute the official interpretation of the nomenclature at the international level. The ENs are not legally binding. However, they do represent the considered views of classification experts of the Harmonized System Committee. It has therefore been the practice of CBP to follow, whenever possible, the terms of the ENs when interpreting the HTSUS.

There is no disagreement as to the classification of the subject merchandise at the 8-digit level. Subheading 6109.10.00, HTSUS, provides for "T-shirts, singlets, tank tops and similar garments, knitted or crocheted: Of cotton." The sole issue in this case is whether the merchandise is classified under subheading 6109.10.0037, HTSUS, or 6109.10.0070, HTSUS. Subheading 6109.10.0037, HTSUS, provides for women's or girls' underwear. Subheading 6109.10.0070 provides for women's or girls' "other" non-underwear garments. Thus, the crux of the question in this case is whether the garments are underwear or outerwear.

The Guidelines for the Reporting of Imported Products in Various Textile and Apparel Categories, CIE 13/88 (1988) ("Guidelines"), define "underwear" as follows:

The term "underwear" refers to garments which are ordinarily worn under other garments and are not exposed to view when the wearer is conventionally dressed for appearance in public, indoors or out-of-doors. Whether or not a garment is worn next to the body of the wearer is not a determinant; . . .

It should be noted that in distinguishing underwear, it is generally agreed that sleeveless tops with lace inserts or lace edgings are predominately worn as underwear.

In past rulings, Customs has pointed out that the merchandise itself may be strong evidence of use. Citing *Mast Industries v. United States*, 9 CIT 549, 552 (1985), *aff'd* 76 F. 2d 1144 (1986), citing *United States v. Bruce Duncan Co.*, 50 CCPA 43, 46, C.A.D. 817 (1963). In that regard, the instant garment is not readily identifiable as either underwear or outerwear. The garment is ambiguous. When presented with a garment which is ambiguous and not clearly recognizable as underwear or outerwear, Customs will consider other

factors such as environment of sale, advertising and marketing, recognition in the trade of virtually identical merchandise, and documentation incidental to the purchase and sale of the merchandise, such as purchase orders, invoices, and other internal documentation. See HQ 960866, July 15, 1999; HQ 960865, dated July 15, 1999; HQ 963442, July 7, 1999; HQ 960864, July 2, 1999; HQ 960862, dated July 2, 1999; HQ 961978, dated June 17, 1999; HQ 961185, dated June 11, 1999; HQ 960906, June 3, 1999; HQ 960926, February 25, 1999; HQ 960925, February 23, 1999; HQ 960928, February 15, 1999; HQ 961116, November 20, 1998; HQ 960690, September 25, 1998; HQ 959843, May 6, 1998; HQ 961036, April 27, 1998; HQ 960797, February 19, 1998; HQ 960442, August 4, 1997; HQ 960391, April 22, 1997; HQ 957762, April 28, 1995; HQ 957615, May 24, 1995; HQ 957004, November 23, 1994; HQ 956351, July 7, 1994. and HQ 956350, July 5, 1994.

It should be noted that CBP considers these factors in totality and no single factor is determinative of classification as each of these factors viewed alone may be flawed. For instance, CBP recognizes that internal documentation and descriptions on invoices may be self-serving as was noted by the court in Regaliti, Inc. v. United States, 16 Ct. Int'l Trade 407 (1992).

Consideration of marketing information, and the design and construction details of the garments are instructive in determining whether or not they are principally used as outerwear or underwear. Additional U.S. Rule of Interpretation 1(a), HTSUS, provides that in the absence of context to the contrary, a tariff classification controlled by use, other than actual use, is to be determined by the principal use in the United States at, or immediately prior to, the date of importation of goods of the same class or kind or merchandise. See HQ 953390, dated June 1, 1993, in which CBP stated that a tank-styled pullover classifiable in subheading 6109.90.1065 and "sold with a matching panty could be viewed as somewhat persuasive evidence that it is indeed underwear."

In the instant case, the tank-like top is marketed and sold with a matching panty. The top and panty will be imported together in sealed polybags, and will be shipped to the final purchaser in the same bags. The advertising literature pictures the garment in an Avon catalogue as a "Knit Lace-Up Cami & Panty." It is described as a "[s]oft, comfortable cotton interlock cami & bikini panty set with beautiful, sexy fit." The advertisement depicts the "cami and panty" set next to a "Flirty Halter Teddy." Finally, the garments are sold exclusively to Avon's "Innerwear" department. See St. Eve International v. United States, 267 F. Supp. 2d 1371 (Ct. Int'l Trade, May 15, 2003), wherein the court held that camisoles sold with matching underpants were recognized, advertised and sold as underwear and were classified under subheading 6109.10.0037, HTSUS.

Although the manner in which an article is designed, manufactured, and marketed is not dispositive of tariff classification, Customs finds it to be persuasive in this case when determining the classification of the ambiguous tank-like top. See Mast Industries, Inc. v. United States, 9 Ct. Int'l Trade 549, 552 (1985), aff'd 786 F.2d 144 (CAFC, 1986); St. Eve International, Inc. v. United States, 11 Ct. Int'l Trade 224 (1987); and Inner Secrets/Secretly Yours, Inc. v. United States, 885 F. Supp. 248 (1995).

HOLDING:

NY J87771 is MODIFIED.

The garment similar to a tank top is classifiable under subheading 6109.10.0037, HTSUS, which provides for "T-shirts, singlets, tank tops and

similar garments, knitted or crocheted: Of cotton: Women's or girls': Other: Other." It is dutiable at the general column one rate at 17 percent *ad valorem*, and the textile category is 352.

The matching panty was correctly classified under subheading 6108.21.0010, HTSUS, which provides for "Women's or girls' slips, petticoats, briefs, panties, nightdresses, pajamas, negligees, bathrobes, dressing gowns and similar articles, knitted or crocheted: Briefs and panties: Of cotton: Women's." It is dutiable at the general column one rate at 7.6 percent *ad valorem*, and the textile category is 352.

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

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

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

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

REVOCATION AND MODIFICATION OF RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF HAND TOOLS

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

ACTION: Notice of revocation of five ruling letters and modification of one ruling letter and revocation of treatment relating to the tariff classification of hand tools.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is revoking five ruling letters and modifying one ruling letter pertaining to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of various hand tools and revoking any treatment previously accorded by Customs to substantially identical transactions. Notice of

the proposed action was published in the *Customs Bulletin* on October 16, 2003. No comments were received in response to this notice.

EFFECTIVE DATE: This revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after February 29, 2004.

FOR FURTHER INFORMATION CONTACT: Keith Rudich, Commercial Rulings Division, (202) 572-8782.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published on October 16, 2003, in the *Customs Bulletin*, Vol. 37, No. 42, proposing to revoke NY I84751, dated August 2, 2002; NY I87124, dated October 10, 2002; NY I87336, dated October 22, 2002; NY I87835, dated October 25, 2002; and NY I89237, dated December 13, 2002; and modify NY I89087, dated December 17 2002. These rulings pertain to the tariff classification of various handtools. No comments were received in response to this notice.

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

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

In NY I84751, dated August 6, 2002, Customs found that a rotary cutting tool with a circular steel blade and a plastic molded handle was classified in subheading 8205.51.75, HTSUS, as handtools, household tools, other. Customs has reviewed the matter and determined that the correct classification of the rotary cutting tool is in subheading 8205.51.30, HTSUS, as handtools, household tools, of iron or steel, other.

In NY I87124, dated October 10, 2002, Customs found that a rolling scissors tool with circular metal blades and a plastic handle was classified in subheading 8205.51.75, HTSUS, as handtools, household tools, other. Customs has reviewed the matter and determined that the correct classification of the rolling scissors is in subheading 8205.51.30, HTSUS, as handtools, household tools, of iron or steel, other.

In NY I87336, dated October 22, 2002, Customs found that a three prong hook grasping computer accessory/tool made of a plastic pencil-like body with a plunger on one end which, when pressed, pushes out three stainless steel wires from the opposite end which can be used for grabbing items, was classified in subheading 8205.59.80, HTSUS, handtools, other, other, other. Customs has reviewed the matter and determined that the correct classification of the computer accessory/tool is in subheading 8205.59.55, HTSUS, as handtools, other, other, of iron or steel, other.

In NY I87835, dated October 25, 2002, Customs found that a "Scrappin Tracer" tool, with a pencil-like kiln dried wooden handle and a stainless steel needle protruding from one end, was classified in subheading 8205.59.80, HTSUS, handtools, other, other, other. Customs has reviewed the matter and determined that the correct classification of the "Scrappin Tracer" is in subheading 8205.59.55, HTSUS, as handtools, other, other, of iron or steel, other.

In NY I89237, dated December 13, 2002, Customs found that a hoof pick was classified in subheading 8205.59.80, HTSUS, as

handtools, other, other, other. Customs has reviewed the matter and determined that the correct classification of the hoof pick is in subheading 8205.59.55, HTSUS, as handtools, other, of iron or steel, other.

In NY I89087, dated December 17, 2002, Customs found that standard paper crimpers, made from an aluminum wheel and rod connected to a plastic handle to give paper a "corrugated" pattern, was classified in subheading 8205.51.75, HTSUS, as handtools, household tools, other. Customs has reviewed the matter and determined that the correct classification of the standard paper crimpers is in subheading 8205.51.60, HTSUS, as handtools, household tools, of aluminum.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is revoking NY I84751, NY I87124, NY I87336, NY I87835, and NY I89237, and modifying NY I89087, and revoking any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letters (HQ) 966269, 966655, 966656, 966657, 966659, and 966658, respectively, as set forth in Attachments A, B, C, D, E and F, respectively, to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions.

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

Dated: December 15, 2003

Gerard J. O'Brien, Jr. for MYLES B. HARMON,
Director;
Commercial Rulings Division.

Attachments

[ATTACHMENT A]

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

HQ 966269

December 15, 2003

CLA-2 RR:CR:GC 966269 KBR

CATEGORY: Classification

TARIFF NOS.: 8205.51.30

MS. JENNIFER R. LAM
COMPLIANCE SUPERVISOR
FISKARS CONSUMER PRODUCTS, INC.
305 84th Avenue South
P.O. Box 8027
Wausau, WI, 54401

RE: Revocation of NY I84751; Rotary Cutter

DEAR MS. LAM:

This is in reference to New York Ruling Letter (NY) I84751, dated August 6, 2002, issued by the Customs National Commodity Specialist Division, regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a Fiskars Brand rotary cutter tool. We have re-considered NY I84751 and determined that the classification of the rotary cutting tool is not correct. This ruling sets forth the correct classification.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), a notice was published on October 16, 2003, Vol. 37, No. 42 of the *Customs Bulletin*, proposing to revoke NY I84751. No comments were received in response to this notice.

FACTS:

The product involved is a rotary cutting tool. The article is comprised of a circular steel blade with a plastic molded handle with a guard. It is intended to be used for crafting, quilting, and paper cutting projects. The plastic handle is molded with a loop through which to place one's hand. Some models of rotary cutting tool have an interchangeable steel blade. Different blades may be used to achieve a different effect, such as: a pinking blade, a wave blade, a deckle blade, a perforating blade, a scoring blade, a scallop blade, a squiggle blade, a Victorian blade, and a tiara blade. The handle has a push button engagement lever to extend the blade away from the handle for use. There is a release button on the handle to retract the blade for storage and safety.

In NY I84751, Customs found that the rotary cutting tool was classified in subheading 8205.51.75, HTSUS, as other handtools, household tools, other. Customs has reviewed the matter and believes that the correct classification of the rotary cutting tool is in subheading 8205.51.30, HTSUS, as other handtools, household tools, or iron or steel, other.

ISSUE:

Whether the rotary cutting tool is a handtool of the household type of iron or steel?

LAW AND ANALYSIS:

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

Inspection of the rotary cutting tool reveals that it is a composite good made up of a plastic molded handle and a steel blade. Each of the components is described by different subheadings within heading 8205, HTSUS.

The HTSUS subheadings under consideration are as follows:

8205	Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof: Other handtools (including glass cutters) and parts thereof:
8502.51	Household tools, and parts thereof: Of iron or steel:
8205.51.30	Other (including parts)
8205.51.75	Other

Because the item is a composite good, we turn to GRI 3(b) (applied at the subheading level by GRI 6), which states that when goods are *prima facie* classifiable under two or more (sub)headings, classification shall be effected as follows:

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a) [by reference to the heading which provides the most specific description], shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VII) for Rule 3(b), goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VIII) for Rule 3(b), the factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. *See, e.g., Better Home Plastics Corp. v. U.S.*, 916 F. Supp. 1265 (CIT 1996), *aff'd* 119 F.3d 969 (Fed. Cir. 1997) (holding the utilitarian role of a shower liner is more important than decorative value of

the curtain sold with it); *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *reh'g denied*, 994 F. Supp. 393 (1998).

Customs has previously determined that a similar article, a wheeled pizza cutter made with both metal and plastic components is classified in subheading 8205.51.30, HTSUS. See NY A89210 (November 8, 1996), HQ 951605 (June 1, 1992), and HQ 951881 (June 26, 1992). Another Customs ruling, HQ 950609 (January 7, 1992), involved a bottle opener with a plastic handle and a metal ring. Although the bottle opener had a plastic handle, it was described as having a metal working edge and, therefore, was classified as of iron or steel in subheading 8205.51.30, HTSUS.

We believe that the essential character of the rotary cutting tool is imparted by the steel blade. Without the steel blade, the article would not be able to accomplish its primary role or function as a cutting device. Therefore, since the essential character of the rotary cutting tool is determined by the steel component, the classification of the article is in subheading 8205.51.30, HTSUS, as other handtools, household tools, of iron or steel, other.

HOLDING:

The rotary cutting tool is classified in subheading 8205.51.30, HTSUS, as other handtools, household tools, of iron or steel, other.

EFFECT ON OTHER RULINGS:

NY I84751 dated August 6, 2002, is **REVOKED**. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective sixty (60) days after publication in the *Customs Bulletin*.

Gerard J. O'Brien, Jr. for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966655
December 15, 2003
CLA-2 RR:CR:GC 966655 KBR
CATEGORY: Classification
TARIFF NOS.: 8205.51.30

MS. GAIL HAGANS
D.L. BYNUM & COMPANY, INC.
510 Plaza Drive, Suite 1890
Atlanta, GA 30349

RE: Revocation of NY I87124; Rolling Scissors

DEAR MS. HAGANS:

This is in reference to New York Ruling Letter (NY) I87124, dated October 10, 2002, issued by the Customs National Commodity Specialist Division, issued to you on behalf of your client, IBS, LLC, regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of

Cutting Edge™ Rolling Scissors. We have reconsidered NY I87124 and determined that the classification of the rolling scissors is not correct. This ruling sets forth the correct classification.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), a notice was published on October 16, 2003, Vol. 37, No. 42 of the *Customs Bulletin*, proposing to revoke NY I87124. No comments were received in response to this notice.

FACTS:

The product involved is a Cutting Edge™ Rolling Scissors. The tool is comprised of circular steel blades with a plastic molded handle. The plastic handle is molded with a loop through which to place one's hand. The article is described as acting as a utility type knife. It is intended to work with gift-wrap, wallpaper, shelf paper, freezer paper, blue prints, vinyl, plastic film, and many arts and crafts type functions. You state the name of the article is perhaps a misnomer. It does not operate as a traditional pair of scissors would. It has no pointed blades or sharp edges. It functions by rolling the cutting edge wheels along the cut line or pulling the material to be cut towards you, through the cutting edge.

In NY I87124, Customs found that the rolling scissors was classified in subheading 8205.51.75, HTSUS, as other handtools, household tools, other. Customs has reviewed the matter and believes that the correct classification of the rolling scissors is in subheading 8205.51.30, HTSUS, as other handtools, household tools, of iron or steel, other.

ISSUE:

Whether the rolling scissors is a handtool of the household type of iron or steel?

LAW AND ANALYSIS:

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

Inspection of the rolling scissors reveals that it is a composite good made up of a plastic molded handle and a steel blade. Each of the components is described by different subheadings within heading 8205, HTSUS.

The HTSUS subheadings under consideration are as follows:

8203	Files, rasps, pliers (including cutting pliers), pincers, tweezers, metal cutting shears, pipe cutters, bolt cutters, perforating punches and similar handtools, and base metal parts thereof:
8203.30.00	Metal cutting shears and similar tools, and parts thereof

- 8205 Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof:
- Other handtools (including glass cutters) and parts thereof:
- 8502.51 Household tools, and parts thereof:
- Of iron or steel:
- 8205.51.30 Other (including parts)
- 8205.51.75 Other

In your ruling request you stated that you believed the article should be classified in subheading 8203.30.00, HTSUS, as metal cutting shears and similar tools. However subheading 8203.30.00, HTSUS, is not for shears *made of metal*, but for shears *made to cut metal*. See EN 82.03 (C) and HQ 956093 (July 7, 1994). Therefore, subheading 8203.30.00, HTSUS, is not appropriate for the rolling scissors which are meant to cut paper and other light-weight materials.

Because the item is a composite good, we turn to GRI 3(b) (applied at the subheading level by GRI 6), which states that when goods are *prima facie* classifiable under two or more (sub)headings, classification shall be effected as follows:

- (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a) [by reference to the heading which provides the most specific description], shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VII) for Rule 3(b), goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VIII) for Rule 3(b), the factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. See, e.g., *Better Home Plastics Corp. v. U.S.*, 916 F. Supp. 1265 (CIT 1996), *aff'd* 119 F.3d 969 (Fed. Cir. 1997) (holding the utilitarian role of a shower liner is more important than decorative value of the curtain sold with it); *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *reh'g denied*, 994 F. Supp. 393 (1998).

Customs has previously determined that a similar article, a wheeled pizza cutter made with both metal and plastic components is classified in subheading 8205.51.30, HTSUS. See NY A89210 (November 8, 1996), HQ 951605 (June 1, 1992), and HQ 951881 (June 26, 1992). Another Customs ruling, HQ 950609 (January 7, 1992), involved a bottle opener with a plastic

handle and a metal ring. Although the bottle opener had a plastic handle, it was described as having a metal working edge and, therefore, was classified as of iron or steel in subheading 8205.51.30, HTSUS.

We believe that the essential character of the rolling scissors is imparted by the steel blades. Without the steel blades, the article would not be able to accomplish its primary role or function as a cutting device. Therefore, since the essential character of the rolling scissors is determined by the steel component, the classification of the article is in subheading 8205.51.30, HTSUS, as other handtools, household tools, of iron or steel, other.

HOLDING:

The rolling scissors is classified in subheading 8205.51.30, HTSUS, as other handtools, household tools, of iron or steel, other.

EFFECT ON OTHER RULINGS:

NY I87124 dated October 10, 2002, is **REVOKED**. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective sixty (60) days after publication in the *Customs Bulletin*.

Gerard J. O'Brien, Jr. for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966656
December 15, 2003
CLA-2 RR:CR:GC 966656 KBR
CATEGORY: Classification
TARIFF NOS.: 8205.59.55

MR. MARK WEISBROD
PRESIDENT
THE BETTER MOUSE TRAP PEOPLE (B.C.) LTD.
111 Water Street - Unit 210
Vancouver, B.C.
Canada V6B 1A7

RE: Revocation of NY I87336; Three Prong Hook Grasping Tool

DEAR MR. WEISBROD:

This is in reference to New York Ruling Letter (NY) I87336, dated October 22, 2002, issued to you by the Customs National Commodity Specialist Division, regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a three prong hook grasping tool. We have reconsidered NY I87336 and determined that the classification of the three prong hook grasping tool is not correct. This ruling sets forth the correct classification.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107

Stat. 2057), a notice was published on October 16, 2003, Vol. 37, No. 42 of the *Customs Bulletin*, proposing to revoke NY I87336. No comments were received in response to this notice.

FACTS:

The product involved is a three prong hook grasping tool. The tool is described as a computer accessory/tool. The tool is 4½ inches long and pencil-like in shape. It has a plastic body with a plastic piston type plunger/button on top. When the button is pushed, three fine steel wires protrude out the bottom. As the wires extend, they open, basket-like. As the button is released, the wires retract and close, allowing them to grip a small article between the wires. The tool would normally be used to pick up small parts such as bolts, nuts or computer parts.

In NY I87336, Customs found that the three prong hook grasping tool was classified in subheading 8205.59.80, HTSUS, as other handtools, other, other. Customs has reviewed the matter and believes that the correct classification of the three prong hook grasping tool is in subheading 8205.59.55, HTSUS, as other handtools, other, other, of iron or steel, other.

ISSUE:

Whether the three prong hook grasping tool is a handtool of iron or steel?

LAW AND ANALYSIS:

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

Inspection of the three prong hook grasping tool reveals that it is a composite good made up of a plastic body with three steel wires. Each of the components is described by a different subheading within heading 8205, HTSUS.

The HTSUS subheadings under consideration are as follows:

- | | |
|---------|--|
| 8205 | Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof: |
| | Other handtools (including glass cutters) and parts thereof: |
| 8205.59 | Other: |
| | Other: |
| | Other: |

Of iron or steel:

8205.59.55

Other

8205.59.80

Other

Because the item is a composite good, we turn to GRI 3(b) (applied at the subheading level by GRI 6), which states that when goods are *prima facie* classifiable under two or more (sub)headings, classification shall be effected as follows:

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a) [by reference to the heading which provides the most specific description], shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VII) for Rule 3(b), goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VIII) for Rule 3(b), the factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. *See, e.g., Better Home Plastics Corp. v. U.S.*, 916 F. Supp. 1265 (CIT 1996), *aff'd* 119 F.3d 969 (Fed. Cir. 1997) (holding the utilitarian role of a shower liner is more important than decorative value of the curtain sold with it); *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *reh'g denied*, 994 F. Supp. 393 (1998).

Customs has previously determined that the essential character of other articles involving a plastic body with a metal working part was determined by the metal working part. HQ 950609 (January 7, 1992) involved a bottle opener with a plastic handle and a metal ring. Although the bottle opener had a plastic handle, it was described as having a metal working edge and, therefore, was classified as of iron or steel in subheading 8205.51.30, HTSUS. *See also* NY A89210 (November 8, 1996), HQ 951605 (June 1, 1992), and HQ 951881 (June 26, 1992) (all involving a wheeled pizza cutter made with both metal and plastic components being classified in subheading 8205.51.30, HTSUS).

We believe that the essential character of the three prong hook grasping tool is imparted by the steel wires. Without the steel wires, the article would not be able to accomplish its primary role or function as a grasping device. It is the steel wires that actually perform the grasping operation. Therefore, since the essential character of the three prong hook grasping tool is determined by the steel component, the classification of the article is in subheading 8205.59.55, HTSUS, as other handtools, other, other, other, of iron or steel, other.

HOLDING:

The three prong hook grasping tool is classified in subheading 8205.59.55, HTSUS, as other handtools, other, other, other, of iron or steel, other.

EFFECT ON OTHER RULINGS:

NY I87336 dated October 22, 2002, is **REVOKED**. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective sixty (60) days after publication in the *Customs Bulletin*.

Gerard J. O'Brien, Jr. for Myles B. Harmon,
Director,
Commercial Rulings Division.

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966657
December 15, 2003
CLA-2 RR:CR:GC 966657 KBR
CATEGORY: Classification
TARIFF NOS.: 8205.59.55

MR. MARK WEISBROD
PRESIDENT
THE BETTER MOUSE TRAP PEOPLE (B.C.) LTD.
111 Water Street - Unit 210
Vancouver, B.C.
Canada V6B 1A7

RE: Revocation of NY I87835; "Scrappin' Tracer" Tool

DEAR MR. WEISBROD:

This is in reference to New York Ruling Letter (NY) I87835, dated October 25, 2002, issued to you by the Customs National Commodity Specialist Division, regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a "Scrappin' Tracer" tool. We have reconsidered NY I87835 and determined that the classification of the Scrappin' Tracer tool is not correct. This ruling sets forth the correct classification.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), a notice was published on October 16, 2003, Vol. 37, No. 42 of the *Customs Bulletin*, proposing to revoke NY I87835. No comments were received in response to this notice.

FACTS:

The product involved is a "Scrappin' Tracer" etching tool. The tool is 5¼ inches long and pencil-like in shape. It has a kiln dried wooden handle with a stainless steel needle protruding 1/2 inch out of one end. You state that the article is typically used for cutting paper using standard plastic stencils. You also state that the needle is sharpened to facilitate etching or cutting of paper, and that the tool actually scrapes rather than cuts paper.

In NY I87835, Customs found that the Scrappin' Tracer tool was classified in subheading 8205.59.80, HTSUS, as other handtools, other, other. Customs has reviewed the matter and believes that the correct classification of

the Scrappin' Tracer tool is in subheading 8205.59.55, HTSUS, as other handtools, other, other, of iron or steel, other.

ISSUE:

Whether the Scrappin' Tracer is a handtool of iron or steel?

LAW AND ANALYSIS:

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

Inspection of the Scrappin' Tracer reveals that it is a composite good made up of a wooden handle with a steel needle. Each of the components is described by different subheadings within heading 8205, HTSUS.

The HTSUS subheadings under consideration are as follows:

8205	Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof: Other handtools (including glass cutters) and parts thereof:
8502.59	Other: Other: Other: Of iron or steel:
8205.59.55	Other
8205.59.80	Other

Because the item is a composite good, we turn to GRI 3(b) (applied at the subheading level by GRI 6), which states that when goods are *prima facie* classifiable under two or more (sub)headings, classification shall be effected as follows:

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a) [by reference to the heading which provides the most specific description], shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VII) for Rule 3(b), goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VIII) for Rule 3(b), the factor which determines essential character will vary as between different kinds of goods. It may, for example, be

determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. *See, e.g., Better Home Plastics Corp. v. U.S.*, 916 F. Supp. 1265 (CIT 1996), *aff'd* 119 F.3d 969 (Fed. Cir. 1997) (holding the utilitarian role of a shower liner is more important than decorative value of the curtain sold with it); *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *reh'g denied*, 994 F. Supp. 393 (1998).

Customs has previously determined that the essential character of other articles involving a body of one material but with a metal working part, was determined by the metal working part. HQ 950609 (January 7, 1992) involved a bottle opener with a plastic handle and a metal ring. Although the bottle opener had a plastic handle, it was described as having a metal working edge and, therefore, was classified as of iron or steel in subheading 8205.51.30, HTSUS. *See also* NY A89210 (November 8, 1996), HQ 951605 (June 1, 1992), and HQ 951881 (June 26, 1992) (all involving a wheeled pizza cutter made with both metal and plastic components being classified in subheading 8205.51.30, HTSUS); and HQ 964640 (March 26, 2001) (involving a steel vegetable peeler with a rubber handle being classified in subheading 8205.51.30, HTSUS).

We believe that the essential character of the Scrappin' Tracer is imparted by the steel needle. Without the steel needle, the article would not be able to accomplish its primary role or function as an etching device. It is the steel needle that actually performs the etching operation. Therefore, since the essential character of the Scrappin' Tracer is determined by the steel component, the classification of the article is in subheading 8205.59.55, HTSUS, as other handtools, other, other, other, of iron or steel, other.

HOLDING:

The Scrappin' Tracer is classified in subheading 8205.59.55, HTSUS, as other handtools, other, other, other, of iron or steel, other.

EFFECT ON OTHER RULINGS:

NY I87835 dated October 22, 2002, is **REVOKED**. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective sixty (60) days after publication in the *Customs Bulletin*.

Gerard J. O'Brien, Jr. for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT E]

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

HQ 966659

December 15, 2003

CLA-2 RR:CR:GC 966659 KBR

CATEGORY: Classification

TARIFF NOS.: 8205.59.55

MS. LISA HOLLAND
HELLMAN WORLDWIDE LOGISTICS
7280 Alum Creek Drive
Suites A-D
Columbus, OH 43217

RE: Revocation of NY I89237; Hoof Pick

DEAR MS. HOLLAND:

This is in reference to New York Ruling Letter (NY) I89237, dated December 13, 2002, issued to you by the Customs National Commodity Specialist Division, regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a hoof pick. We have reconsidered NY I89237 and determined that the classification of the hoof pick is not correct. This ruling sets forth the correct classification.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), a notice was published on October 16, 2003, Vol. 37, No. 42 of the *Customs Bulletin*, proposing to revoke NY I89237. No comments were received in response to this notice.

FACTS:

The product involved is a hoof pick which is used to remove debris from horse hooves. It measures 6.65 inches long and 1.5 inches in width. It has a plastic handle which is 63% of the article's weight and a stainless steel hook extending out of one end which is 37% of the article's weight.

In NY I89237, Customs found that the hoof pick was classified in subheading 8205.59.80, HTSUS, as other handtools, other, other, other, other. Customs has reviewed the matter and believes that the correct classification of the hoof pick is in subheading 8205.59.55, HTSUS, as other handtools, other, other, other, of iron or steel, other.

ISSUE:

Whether the hoof pick is a handtool of iron or steel?

LAW AND ANALYSIS:

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

Inspection of the hoof pick reveals that it is a composite good made up of a plastic handle with a stainless steel hook. Each of the components is described by different subheadings within heading 8205, HTSUS.

The HTSUS subheadings under consideration are as follows:

7326	Other articles of iron or steel:
7326.90	Other
	Other
	Other
7326.90.85	Other
8205	Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof:
	Other handtools (including glass cutters) and parts thereof:
8502.59	Other:
	Other:
	Other:
	Of iron or steel:
8205.59.55	Other
8205.59.80	Other

Because the item is a composite good, we turn to GRI 3(b) (applied at the subheading level by GRI 6), which states that when goods are *prima facie* classifiable under two or more (sub)headings, classification shall be effected as follows:

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a) [by reference to the heading which provides the most specific description], shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VII) for Rule 3(b), goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VIII) for Rule 3(b), the factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. See, e.g., *Better Home Plastics Corp. v. U.S.*,

916 F. Supp. 1265 (CIT 1996), *aff'd* 119 F.3d 969 (Fed. Cir. 1997) (holding the utilitarian role of a shower liner is more important than decorative value of the curtain sold with it); *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *reh'g denied*, 994 F. Supp. 393 (1998).

You stated that you believed the hoof pick should be classified in subheading 7326.90.85, HTSUS. However, that subheading is a so called "basket provision" for classification of articles of iron or steel which are not classifiable elsewhere. Classification of the hoof pick in this subheading is precluded by operation of GRI 1 if the hoof pick can be more specifically classified elsewhere in the HTSUS. See *Apex Universal, Inc. v. United States*, CIT Slip Op. 98-69 (May 21, 1998) ("Classification of imported merchandise in a basket provision is appropriate only when there is no tariff category that covers the merchandise more specifically [citations omitted]").

In comparison, heading 8205, HTSUS, is a specific provision for hand tools. EN 82.05(E)(7), specifically lists "hoof pickers" as a type of tool to be classified in this heading. Therefore, classification in heading 8205, HTSUS, is appropriate.

Customs has previously determined that the essential character of other articles involving a plastic body with a metal working part was determined by the metal working part. HQ 950609 (January 7, 1992) involved a bottle opener with a plastic handle and a metal ring. Although the bottle opener had a plastic handle, it was described as having a metal working edge and, therefore, was classified as of iron or steel in subheading 8205.51.30, HTSUS. See also NY A89210 (November 8, 1996), HQ 951605 (June 1, 1992), and HQ 951881 (June 26, 1992) (all involving a wheeled pizza cutter made with both metal and plastic components being classified in subheading 8205.51.30, HTSUS).

We believe that the essential character of the hoof pick is imparted by the stainless steel hook. Without the stainless steel hook, the article would not be able to accomplish its primary role or function as a device to remove debris from a horse's hoof. It is the stainless steel hook that actually performs the removal operation. Therefore, since the essential character of the hoof pick is determined by the stainless steel component, the classification of the article is in subheading 8205.59.55, HTSUS, as other handtools, other, other, other, of iron or steel, other.

HOLDING:

The hoof pick is classified in subheading 8205.59.55, HTSUS, as other handtools, other, other, other, of iron or steel, other.

EFFECT ON OTHER RULINGS:

NY I89237 dated December 13, 2002, is REVOKED. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective sixty (60) days after publication in the *Customs Bulletin*.

Gerard J. O'Brien, Jr. for MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT F]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966658
December 15, 2003
CLA-2 RR:CR:GC 966658 KBR
CATEGORY: Classification
TARIFF NOS.: 8205.51.60; 8205.51.75

MS. JENNIFER R. LAM
COMPLIANCE SUPERVISOR
FISKARS CONSUMER PRODUCTS, INC.
8300 Highland Drive
Wausau, WI 54401

RE: Modification of NY I89087; Paper Crimper

DEAR MS. LAM:

This is in reference to New York Ruling Letter (NY) I89087, dated December 17, 2002, issued to you by the Customs National Commodity Specialist Division, regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a standard paper crimper, model 9340 7097, and a wavy paper crimper, model 9341 7097. We have reconsidered NY I89087 and determined that the classification of the standard paper crimper is not correct. This ruling sets forth the correct classification.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), a notice was published on October 16, 2003, Vol. 37, No. 42 of the *Customs Bulletin*, proposing to modify NY I89087. No comments were received in response to this notice.

FACTS:

The product involved is a standard paper crimper, model 9340 7097, which is intended for use in household paper crafting projects such as customizing cards. The standard paper crimper is used to create a corrugated pattern on paper up to 6½ inches wide. The standard paper crimper creates a straight line pattern in the paper.

The standard paper crimper, model 9340 7097, is comprised of a crimping wheel made of aluminum which is held onto a plastic handle by an aluminum rod. The aluminum contacts the paper to create a corrugated effect. You state that most of the weight and cost of both models is derived from the plastic component.

In NY I89087, Customs found that both paper crimpers were classified in subheading 8205.51.75, HTSUS, as other handtools, household tools, other. Customs has reviewed the matter and believes that the correct classification of the standard paper crimper, model 9340 7097, is in subheading 8205.51.60, HTSUS, as other handtools, household tools, of aluminum.

ISSUE:

Whether the standard paper crimper is a household tool of aluminum or plastic?

LAW AND ANALYSIS:

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

Inspection of the standard paper crimper reveals that it is a composite good made up of a plastic handle with an aluminum crimping wheel and attachment rod. Each of the components is described by different subheadings within heading 8205, HTSUS.

The HTSUS subheadings under consideration are as follows:

8205	Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof:
	Other handtools (including glass cutters) and parts thereof:
8205.51	Household tools, and parts thereof:
8205.51.60	Of aluminum
8205.51.75	Other

Because the item is a composite good, we turn to GRI 3(b) (applied at the subheading level by GRI 6), which states that when goods are *prima facie* classifiable under two or more (sub)headings, classification shall be effected as follows:

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a) [by reference to the heading which provides the most specific description], shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VII) for Rule 3(b), goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VIII) for Rule 3(b), the factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods. *See, e.g., Better Home Plastics Corp. v. U.S.*, 916 F. Supp. 1265 (CIT 1996), *aff'd* 119 F.3d 969 (Fed. Cir. 1997) (holding the utilitarian role of a shower liner is more important than decorative value of

the curtain sold with it); *Mita Copystar America, Inc. v. U.S.*, 966 F. Supp. 1245 (CIT 1997), *reh'g denied*, 994 F. Supp. 393 (1998).

Customs has previously determined that the essential character of other articles involving a plastic body with a metal working part was determined by the metal working part. HQ 950609 (January 7, 1992) involved a bottle opener with a plastic handle and a metal ring. Although the bottle opener had a plastic handle, it was described as having a metal working edge and, therefore, was classified as of iron or steel in subheading 8205.51.30, HTSUS. *See also* NY A89210 (November 8, 1996), HQ 951605 (June 1, 1992), and HQ 951881 (June 26, 1992) (all involving a wheeled pizza cutter made with both metal and plastic components being classified in subheading 8205.51.30, HTSUS).

We believe that the essential character of the standard paper crimper, model 9340 7097, is imparted by the aluminum crimping wheel. Without the aluminum crimping wheel, the article would not be able to accomplish its primary role of crimping paper. It is the aluminum wheel that actually performs the crimping operation. Therefore, since the essential character of the standard paper crimper, model 9340 7097, is determined by the aluminum component, the classification of the standard paper crimper is in subheading 8205.51.60, HTSUS, as other handtools, household tools, of aluminum.

HOLDING:

The standard paper crimper, model 9340 7097, is classified in subheading 8205.51.60, HTSUS, as other handtools, household tools, of aluminum.

EFFECT ON OTHER RULINGS:

NY I89087 dated December 17, 2002, is **MODIFIED**. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective sixty (60) days after publication in the *Customs Bulletin*.

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