

# Bureau of Customs and Border Protection

## *Proposed Collection; Comment Request*

### **CBP Regulations for Customhouse Brokers**

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the CBP Regulations for Customhouse Brokers. 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 November 22, 2004, to be assured of consideration.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to U.S. Customs Service, Attn. Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**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:** CBP Regulations for Customhouse Brokers

**OMB Number:** 1651-0034

**Form Number:** N/A

**Abstract:** This information is collected to ensure regulatory compliance for Customhouse brokers.

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

**Type of Review:** Extension (without change)

**Affected Public:** Businesses, Individuals, Institutions

**Estimated Number of Respondents:** 3800

**Estimated Time Per Respondent:** 1.4 hours

**Estimated Total Annual Burden Hours:** 5450

**Estimated Total Annualized Cost on the Public:** \$545,000

Dated: September 14, 2004

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

[Published in the Federal Register, September 21, 2004 (69 FR 56449)]

### Commercial Invoice

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burdens, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Commercial Invoice. 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 November 22, 2004, to be assured of consideration.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to the Bureau of Customs and

Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 344-1429.

**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 the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. 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:** Commercial Invoice

**OMB Number:** 1651-0090

**Form Number:** N/A

**Abstract:** The collection of the Commercial Invoice is necessary for the proper assessment of duties. The invoice(s) is attached to the CBP Form 7501. The information which is supplied by the foreign shipper is used to ensure compliance with statutes and regulations.

**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:** Business or other for-profit institutions

**Estimated Number of Respondents:** 46,500,000

**Estimated Time Per Respondent:** 10 seconds

**Estimated Total Annual Burden Hours:** 130,200

**Estimated Total Annualized Cost on the Public:** \$2,050,650.00

Dated: September 14, 2004

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

[Published in the Federal Register, September 21, 2004 (69 FR 56447)]

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**Cost Submission**

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to

comment on an information collection requirement concerning Cost Submission. 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 November 22, 2004, to be assured of consideration.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 344-1429.

**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:** Cost Submission

**OMB Number:** 1651-0028

**Form Number:** Form CBP-247

**Abstract:** These Cost Submissions, Form CBP-247, are used by importers to furnish cost information to CBP which serves as the basis to establish the appraised value of 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, Individuals, Institutions

**Estimated Number of Respondents:** 1,000

**Estimated Time Per Respondent:** 50 hours  
**Estimated Total Annual Burden Hours:** 50,000  
**Estimated Total Annualized Cost on the Public:** \$1,089,000

Dated: September 14, 2004

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

[Published in the Federal Register, September 21, 2004 (69 FR 56449)]

**Declaration of Ultimate Consignee That Articles Were  
Exported for Temporary Scientific or Educational Purposes**

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes. 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 November 22, 2004, to be assured of consideration.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 344-1429.

**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:** Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes

**OMB Number:** 1651-0036

**Form Number:** N/A

**Abstract:** The "Declaration of Ultimate Consignee that Articles were Exported for Temporary Scientific or Educational Purposes" is used to provide duty free entry under conditions when articles are temporarily exported solely for scientific or educational purposes.

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

**Type of Review:** Extension (without change)

**Affected Public:** Businesses, Individuals, Institutions

**Estimated Number of Respondents:** 55

**Estimated Time Per Respondent:** 30 minutes

**Estimated Total Annual Burden Hours:** 27

**Estimated Total Annualized Cost on the Public:** \$754.65

Dated: September 14, 2004

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

[Published in the Federal Register, September 21, 2004 (69 FR 56448)]

**Report of Loss, Detention, or Accident by Bonded Carrier,  
Cartman, Lighterman, Foreign Trade Zone Operator, or  
Centralized Examination Station Operator**

**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 Report of Loss, Detention, or Accident by Bonded Carrier, Cartman, Lighterman, Foreign Trade Zone Operator, or Centralized Examination Station Operator. 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 November 22, 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) 344-1429.

**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; 8 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:** Report of Loss, Detention, or Accident by Bonded Carrier, Cartman, Lighterman, Foreign Trade Zone Operator, or Centralized Examination Station Operator

**OMB Number:** 1651-0066

**Form Number:** N/A

**Abstract:** This collection is required to ensure that any loss or detention of bonded merchandise, or any accident happening to a vehicle or lighter while carrying bonded merchandise shall be immediately reported by the cartman, lighterman, qualified bonded carrier, foreign trade zone operator, bonded warehouse proprietor, container station operator or centralized examination station operator are properly reported to the port director

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

**Type of Review:** Extension (without change)

**Affected Public:** Businesses, Individuals, Institutions

**Estimated Number of Respondents:** 325

**Estimated Time Per Respondent:** 37 minutes

**Estimated Total Annual Burden Hours:** 200

**Estimated Total Annualized Cost on the Public:** \$8,000

Dated: September 14, 2004

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

[Published in the Federal Register, September 21, 2004 (69 FR 56446)]

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### **User Fees (Form CBP-339)**

**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 User Fees. 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 November 22, 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 3.2.C, Washington, D.C. 20229, Tel. (202) 344-1429.

**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:** User Fees

**OMB Number:** 1651-0052

**Form Number:** Form CBP-339

**Abstract:** The information collected on the User Fee Form CBP-339 is necessary in order for CBP to collect user fees from private and commercial vessels, private aircraft, operators of commercial trucks, and passenger and freight railroad cars entering the United States and recipients of certain dutiable mail entries for certain official services.

**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 or other for-profit.

**Estimated Number of Respondents:** 60,025

**Estimated Time Per Respondent:** 16 minutes

**Estimated Total Annual Burden Hours:** 16,100

**Estimated Total Annualized Cost on the Public:** \$192,000

Dated: September 14, 2004

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

[Published in the Federal Register, September 21, 2004 (69 FR 56448)]

DEPARTMENT OF HOMELAND SECURITY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS.  
*Washington, DC, September 22, 2004,*

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.

MICHAEL T. SCHMITZ,  
*Assistant Commissioner,  
Office of Regulations and Rulings.*

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## *General Notices*

### **19 CFR PART 177**

#### **PROPOSED MODIFICATION OF A RULING LETTER AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF CERTAIN STEREOS INCORPORAT- ING A DUAL CASSETTE DECK**

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

**ACTION:** Notice of proposed modification of a ruling letter and revocation of treatment relating to tariff classification of certain stereos incorporating a dual cassette deck.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection ("CBP") intends to modify a ruling letter and revoke any treatment pertaining to the tariff classification of certain stereos incorporating a dual cassette deck under the Harmonized Tariff Schedule of the United States ("HTSUS"). Comments are invited on the correctness of the proposed action.

**DATE:** Comments must be received on or before November 5, 2004.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs

and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Tom Peter Beris, General Classification Branch, at (202) 572-8789.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke a ruling letter pertaining to the tariff classification of certain stereos which incorporate a dual cassette deck. Although in this notice CBP is specifically referring to one ruling, HQ 950522, dated August 24, 1992, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

In HQ 950522 ("Attachment A" to this document), CBP held that certain alternating current ("AC") combination stereos incorporating, *inter alia*, a dual cassette deck tape player/recorder was prop-

erly classified under subheading 8527.31.50, HTSUS, which provides for reception apparatus for radiobroadcasting, combined in the same housing, with sound recording or reproducing apparatus, other radiobroadcast receivers, combined with sound recording or reproducing apparatus, other, other combinations incorporating tape recorders. That ruling relied upon HQ 087179, dated May 31, 1991, which held that certain audio systems incorporating dual cassette decks were properly classified under subheading 8527.31.50, HTSUS, and not subheading 8527.31.40, HTSUS, because the dual cassette decks shared many of the same components and were required to be considered as one single unit. In reaching its conclusion, HQ 087179 stated that “[u]nlike subheading 8527.31.40, which restricts the tape players described to those which are incapable of recording, subheading 8527.31.50 does not restrict the tape recorders described to those which are incapable of playing.”

However, HQ 087179 was revoked by HQ 952271 on August 24, 1992. HQ 952271 held that based upon further analysis and research, the audio systems incorporating dual cassette decks were properly classified under subheading 8527.31.40, which provides for combinations incorporating tape players which are incapable of recording. The reasoning for this shift in position was reflected in HQ 950882, dated August 7, 1992, which indicated that 8527.31.40, HTSUS, contemplates that we consider the respective functions of the tape player and recorder separately. This reasoning was mirrored in a number of CBP rulings. *See* HQ 952416, HQ 952417, HQ 951932, HQ 952229, all dated August 24, 1992; HQ 952098, dated October 15, 1992; HQ 952501, dated December 1, 1992.

Pursuant to 19 U.S.C.1625(c)(1), CBP intends to modify HQ 950522, and any other ruling not specifically identified to the extent that they do not reflect the interpretation set forth by CBP in HQ 950882, *et. al.*, and the analysis set forth in proposed HQ 967280 (“Attachment B”). Before taking this action, we will give consideration to any written comments timely received.

**DATED:** September 21, 2004

John Elkins for MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

Attachments

**[ATTACHMENT A]**

**DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 950522  
August 24, 1992  
CLA-2 CO:R:C:M 950522 MBR  
CATEGORY: Classification  
TARIFF NO.: 8527.31.50**

**J. KEVIN HORGAN  
PILLSBURY, MADISON & SUTRO  
Suite 1100  
1667 K Street, NW.  
Washington, D.C. 20001**

**RE: Alternating Current (AC) Combination Stereos Incorporating a  
Radio, a Dual Cassette Deck Tape Player/Recorder, a Record  
Player, and a Graphic Equalizer**

**DEAR MR. HORGAN:**

**This is in reply to your letter of October 9, 1991, on behalf of Thomson Consumer Electronics, Inc., requesting classification of AC combination stereos, under the Harmonized Tariff Schedule of the United States (HTSUS).**

**FACTS:**

**The merchandise in question is combination stereos incorporating an AM/FM radio, a dual cassette deck (with one play only tape well and one play/record tape well), a record player, and a graphic equalizer. This stereo system is incapable of operating without an external source of power (i.e., it is "nonportable").**

**The dual cassette deck contains two tape wells. One well has tape heads for recording and playing, and the other well has a tape head for playing only. The dual cassette deck features the ability to record from one tape to another, to record from the tuner, turntable or other source, and to play. The dual cassette deck wells are driven by the same motor, which is incorporated in the cassette deck assembly mounted behind the tape deck section of the main system housing. The dual cassette deck wells share the same output and many common parts, such as a chassis assembly, gears, roller assemblies and numerous rods, levers and springs. The dual cassette deck wells also share certain controls such as switches for dubbing speed and headphones.**

**ISSUE:**

**Is the appropriate classification for nonportable, combination AC stereos under subheading 8527.31.40, HTSUS, which provides for combination stereos incorporating tape players which are incapable of recording, or is the proper classification under subheading 8527.31.50, HTSUS, which provides for other combinations incorporating tape recorders?**

**LAW AND ANALYSIS:**

The General Rules of Interpretation (GRI's) to the HTSUS govern the classification of goods in the tariff schedule. GRI 1 states in pertinent part that "for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes. . . ."

Heading 8527, HTSUS, in pertinent part, describes reception apparatus for radiobroadcasting, whether or not combined in the same housing with sound recording or reproducing apparatus. There is no dispute that the stereo combinations under consideration are described by this heading.

GRI 6 governs the classification of goods in the subheadings of a heading. GRI 6 provides in pertinent part that the classification of goods in the subheadings of a heading is determined according to the terms of the subheadings. In the instant case, the competing subheadings are as follows:

**8527.31.40** Combinations incorporating tape players which are incapable of recording

**8527.31.50** Other combinations incorporating tape recorders

Subheading 8527.31.40, HTSUS, is inapplicable in this instance because the dual cassette decks incorporated into the systems are capable of recording. The systems do not incorporate tape players which are incapable of recording. See HQ 087179, dated May 31, 1991.

Unlike subheading 8527.31.40, HTSUS, which restricts the tape players described to those which are incapable of recording, subheading 8527.31.50, HTSUS, does not restrict the tape recorders described to those which are incapable of playing. Because the combinations under consideration incorporate tape recorders, they are classifiable under subheading 8527.31.50, HTSUS.

You argue that the units are classifiable under subheading 8527.31.40, HTSUS, which provides for combinations incorporating tape players which are incapable of recording.

The dual cassette deck physically and functionally integrates two tape wells to allow the wells to be used together to record ("dubbing") from one well to the other. One can also use the dual cassette deck for single well play or record.

However, the "play only" well cannot operate without the motor and many common tape deck parts it shares with the "record/play" well. The motor and common parts are clearly not separate or distinct to either tape well.

If classified separately, the dual cassette deck would be described by Heading 8520 as a tape recorder incorporating a sound reproducing (playing) device. The fact that the dual cassette deck may be housed together with tuner/amplifiers and other components does not erase its identity as a dual cassette deck that records as well as plays. The dual cassette deck component of the audio systems under consideration is not described in the promotional literature as a separate tape player and tape recorder, but is identified as a "Dual Cassette with High Speed Dubbing."

You argue that the legislative intent behind the change in language of these tariff provisions was to provide for the instant combination stereos (capable of recording) to be classifiable in subheading 8527.31.40, HTSUS, which provides for combinations incorporating tape players which are incapable of recording. However, our research and discussions with the International Trade Commission and the Office of the United States Trade Representative have contradicted that assertion. Furthermore, the express terms and plain meaning of the article description for subheading 8527.31.40, HTSUS, do not express the “intent” you assert. Combinations incorporating a dual cassette deck (which is capable of recording), simply cannot be described as combinations incorporating tape players which are incapable of recording.

Furthermore, as the court has emphatically stated, “it is not for us to distort the statute to ‘fix’ what Congress either intentionally or inadvertently failed to anticipate.” *Sea-Land Service, Inc. v. United States*, Appeal No. 90-1311 (Decided November 30, 1990), citing *Unimed, Inc. v. Quigg*, 888 F.2d 826, 829 (Fed. Cir. 1989); See *Crooks v. Harrelson*, 282 U.S. 55, 60, 51 S.Ct. 49, 51, 75 L.Ed. 156 (1930) (“Laws enacted with good intention, when put to the test, frequently, and to the surprise of the law maker himself, turn out to be mischievous, absurd or otherwise objectionable. But in such case the remedy lies with the law making authority, and not with the courts.”).

**HOLDING:**

The Thompson Consumer Electronics, Inc., “General Electric,” combination stereos are classified as reception apparatus for radiobroadcasting, combined in the same housing, with sound recording or reproducing apparatus, other radiobroadcast receivers, combined with sound recording or reproducing apparatus, other, other combinations incorporating tape recorders, in subheading 8527.31.50, HTSUS. The rate of duty is 4.9 percent ad valorem.

JOHN DURANT,  
*Director;*  
*Commercial Rulings Division.*

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
**HQ 967280**  
**CLA-2 RR: CR: GC 967280 TPB**  
**CATEGORY: Classification**  
**TARIFF NO.: 8527.31.40**

J. KEVIN HORGAN  
PILLSBURY, MADISON & SUTRO  
*Suite 1100*  
*1667 K Street, N.W.*  
*Washington, D.C. 20001*

**RE:** Alternating Current Combination Stereos Incorporating a Radio, a Dual Cassette Deck Tape Player/Recorder, a Record Player, and a Graphic Equalizer

DEAR MR. HORGAN:

This is in regard to HQ 950522, issued to you on August 24, 1992, pertaining to the classification of alternating current ("AC") combination stereos under the Harmonized Tariff Schedule of the United States ("HTSUS"). That ruling classified the merchandise under subheading 8527.31.50, HTSUS, as reception apparatus for radiobroadcasting, combined in the same housing, with sound recording or reproducing apparatus, other radiobroadcast receivers, combined with sound recording or reproducing apparatus, other, other combinations incorporating tape recorders..

We have recently had an opportunity to review HQ 950522 in light of other rulings issued by Customs and Border Protection ("CBP") and for the reasons set forth below find that it is in error and the proper classification of the merchandise is under subheading 8527.31.40, HTSUS, which provides for reception apparatus for radiobroadcasting, combined in the same housing, with sound recording or reproducing apparatus, other radiobroadcast receivers, combined with sound recording or reproducing apparatus, other, combinations incorporating tape players which are incapable of recording.

**FACTS:**

The merchandise is described in HQ 950522 as follows:

The merchandise in question is combination stereos incorporating an AM/FM radio, a dual cassette deck (with one play only tape well and one play/record tape well), a record player, and a graphic equalizer. This stereo system is incapable of operating without an external source of power (i.e., it is "nonportable").

The dual cassette deck contains two tape wells. One well has tape heads for recording and playing, and the other well has a tape head for playing only. The dual cassette deck features the ability to record from one tape to another, to record from the tuner, turntable or other source, and to play.

The dual cassette deck wells are driven by the same motor, which is incorporated in the cassette deck assembly mounted behind the tape deck section of the main system housing. The dual cassette deck wells share the same output and many common parts, such as a chassis assembly,

gears, roller assemblies and numerous rods, levers and springs. The dual cassette deck wells also share certain controls such as switches for dubbing speed and headphones.

**ISSUE:**

Are the combination AC stereos properly classified under subheading 8527.31.40, HTSUS, which provides for combination stereos incorporating tape players which are incapable of recording, or under subheading 8527.31.50, HTSUS, which provides for other combinations incorporating tape recorders?

**LAW AND ANALYSIS:**

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRIs"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

Heading 8527, HTSUS, in pertinent part, describes reception apparatus for radiobroadcasting, whether or not combined in the same housing with sound recording or reproducing apparatus. There is no dispute that the stereo combinations under consideration are described by this heading.

GRI 6 governs the classification of goods in the subheadings of a heading. GRI 6 provides, in pertinent part, that the classification of goods in the subheadings of a heading is determined according to the terms of the subheadings. In the instant case, the competing subheadings are as follows:

8527.31.40      Combinations incorporating tape players which are incapable of recording

8527.31.50      Other combinations incorporating tape recorders

HQ 90522 held that the goods at issue were classified under subheading 8527.31.50, HTSUS, which provides for reception apparatus for radiobroadcasting, combined in the same housing, with sound recording or reproducing apparatus, other radiobroadcast receivers, combined with sound recording or reproducing apparatus, other, other combinations incorporating tape recorders. That ruling relied upon HQ 087179, dated May 31, 1991, which held that certain audio systems incorporating dual cassette decks were properly classified under subheading 8527.31.50, HTSUS, and not 8527.31.40, HTSUS, because the dual cassette decks shared many of the same components and were required to be considered as one single unit. In reaching its conclusion, HQ 087179 stated that "[u]nlike subheading 8527.31.40, which restricts the tape players described to those which are incapable of recording, subheading 8527.31.50 does not restrict the tape recorders described to those which are incapable of playing."

However, HQ 087179 was revoked by HQ 952271 on August 24, 1992. HQ 952271 held that based upon further analysis and research, the audio systems incorporating dual cassette decks were properly classified under subheading 8527.31.40, which provides for combinations incorporating tape players which are incapable of recording. The reasoning for this shift in position was reflected in HQ 950882, dated August 7, 1992, which indicated that 8527.31.40, HTSUS, contemplates that we consider the respective functions of the tape player and recorder separately. This reasoning was mirrored in a

number of CBP rulings. *See* HQ 952416, HQ 952417, HQ 951932, HQ 952229, all dated August 24, 1992; HQ 952098, dated October 15, 1992; HQ 952501, dated December 1, 1992.

For the reasons set forth in 950882, *et. al.*, we find that the stereos presently at issue are properly classified under subheading 8527.31.40, HTSUS. For that reason, CBP is revoking HQ 950522.

**HOLDING:**

For the reasons set forth above, the Thompson Consumer Electronics, Inc., "General Electric," combination stereos are classified under subheading 8527.31.4080, HTSUSA, as reception apparatus for radiobroadcasting, combined in the same housing, with sound recording or reproducing apparatus, other radiobroadcast receivers, combined with sound recording or reproducing apparatus, other, combinations incorporating tape players which are incapable of recording. The 2004 column one, general rate of duty is 1%. Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the internet at [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS**

HQ 950522, dated August 24, 1992, is revoked.

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

**REVOCATION OF RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE CLASSIFICATION OF TEXTILE PILLOW COVERS WITH ZIPPER CLOSURES**

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** Notice of revocation of two tariff classification ruling letters and revocation of any treatment relating to the classification of certain textile pillow covers with zipper closures.

**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 CBP is revoking two ruling letters relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of textile pillow covers with zipper closures. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed action was published on July 14, 2004, in the *Customs Bulletin* in Vol.38, Number 29. One comment was received in response to this notice.

**DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ann Segura Minardi, Textiles Branch, (202) 572-8822.

**SUPPLEMENTARY INFORMATION:**

Background

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin* on July 14, 2004, proposing to revoke two ruling letters pertaining to the tariff classification of textile pillow covers with zipper closures. One comment was received in response to this notice.

As stated in the notice of proposed revocation, although CBP is specifically referring to the revocation of Headquarters Ruling Letter (HQ) 965342, dated July 17, 2002, and New York Ruling Letter (NY) J86955 dated August 21, 2003, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should have advised CBP during this notice period.

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

One comment was received in response to this notice. The commenter stated that the scope of the proposed revocations is unclear and asserted that pillow covers, zippered or otherwise, should not be classified in heading 6304, HTSUSA. The commenter further asserted that when classifying this type of product, the focus should be on the article's function or purpose which is simply as a component of an unfinished pillow. Thus, the commenter characterized these articles as pillow "shells" which merely form the outermost portion of a pillow. The commenter recommended that the merchandise be classified as "other made up articles" in heading 6307, HTSUSA.

We disagree with the commenter's assertions. In order to clarify the scope of these proposed revocations, we begin by noting that the subject article is not classifiable as "bed linen" of heading 6302, HTSUSA. Specifically, pillow protectors which are sold separately and designed for use as protective covers or as allergen barriers for the user, have been classified in heading 6302, HTSUSA. See Headquarters Ruling Letter (HQ) 088548, May 22, 1991; NY E83934, July 26, 1999; NY H80682, May 31, 2001; NY J88376, September 18, 2003, and NY J89412, October 15, 2003. In this instance, the subject articles are designed to be sold with a latex foam bun or polyester fiber fill as integral parts of pillows.

In revoking HQ 965342 and NY J86955, we are relying on established precedent wherein CBP has distinguished between pillow shells and covers. In this instance, the major distinction is that a cover is a finished item with some means of closure while a shell is unfinished. See HQ 964490, dated October 19, 2000; HQ 088340, dated January 4, 1990; HQ 956121, dated June 22, 1994; HQ 963484, dated April 20, 2001. Thus, we have determined that the subject pillow covers are properly classified as "Other furnishing articles" in heading 6304, HTSUSA.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking HQ 965342 and NY J86955 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the

proper classification of the merchandise pursuant to the analysis set forth in HQ 967166 (Attachment A) and HQ 966808 (Attachment B). 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: September 22, 2004

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

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 967166  
September 22, 2004  
CLA-2 RR:CR:TE 967166 ASM  
CATEGORY: Classification  
TARIFF NO.: 6304.91.0040

MS. TAMMIE MARTIN  
DIVERSIFIED FREIGHT LOGISTICS, INC.  
P.O. Box 610629  
DFW Airport, TX 75261

RE: Revocation of HQ 965342, regarding classification of a knit textile pillow cover with zipper closure

DEAR MS. MARTIN:

This is in regard to the Customs and Border Protection (CBP) Headquarters Ruling Letter (HQ) 965342, issued to you on July 17, 2002, on behalf of your client, Wolf Manufacturing. We have reviewed this ruling and determined that the classification provided for this merchandise is incorrect. This ruling revokes HQ 965342 by providing the correct classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) for a knit textile pillow cover with a zipper closure.

Pursuant to section 625(c), Tariff Act of 1930, 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, 2188 (1993) notice of the proposed revocation of HQ 965342 was published on July 14, 2004, in Vol. 38, No. 29, of the *Customs Bulletin*. One comment was received in response to this notice.

FACTS:

In HQ 965342, the subject article was described as an unfilled "u-shaped" pillow cover, made of 100 percent polyester knit fleece fabric and measuring approximately 11.5 inches wide by 16 inches long. The pillow cover featured

a 7-inch long zippered opening. After importation into the United States, the cover was to be stuffed with polyester fiber fill and the zipper closed. The merchandise was classified in subheading 6307.90.9889, HTSUSA, which provides for "Other made up articles, including dress patterns: Other: Other: Other: Other: Other."

ISSUE:

What is the proper classification for the merchandise?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the heading and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The commenter states that the scope of the proposed revocation is unclear and asserts that pillow covers, zippered or otherwise, should not be classified in heading 6304, HTSUSA. The commenter further asserts that when classifying this type of product, the focus should be on the article's function or purpose, which is believed to be simply a component of an unfinished pillow. The commenter characterizes this article as a pillow "shell" which merely forms the outermost portion of a pillow. Thus, the commenter suggests that the merchandise be classified as "other made up articles" in heading 6307, HTSUSA.

We disagree with the commenter's assertions and begin by noting that the subject article is not classifiable as "bed linen" of heading 6302, HTSUSA. Specifically, pillow protectors which are sold separately and designed for use as protective covers for pillows or as allergen barriers for the user, have been classified in heading 6302, HTSUSA. *See* Headquarters Ruling Letter (HQ) 088548, May 22, 1991; NY E83934, July 26, 1999; NY H80682, May 31, 2001; NY J88376, September 18, 2003, and NY J89412, October 15, 2003. In this instance, the cover is not sold separately. Rather, the cover has been designed to be stuffed with polyester fiber fill and the zipper closed. Thus, the cover is an integral part of the pillow.

In revoking HQ 965342, we are relying on established precedent wherein CBP has distinguished between pillow shells and covers. In this instance, the major distinction is that a cover is a finished item with some means of closure while a shell is unfinished. CBP has consistently ruled that finished pillow or cushion covers with zipper closures are classifiable in heading 6304, HTSUSA.

In Headquarters Ruling Letter (HQ) 964490, dated October 19, 2000, a knit polyester fleece cover for a neck pillow, having a zipper closure on one side and designed to be filled with loose polyester fiber after importation into the United States, was classified under subheading 6304.91.0040, HTSUSA, which provides for "Other furnishing articles, excluding those of heading 9404: Other: Knitted or crocheted, Of man-made fibers." In HQ

088340, dated January 4, 1990, CBP classified two different styles of “pillow covers” in heading 6304, HTSUSA: Style 1664 was constructed with a zippered opening; Style 8802 did not have a finished zipper closure but the back consisted of two over-lapping panels forming a pocket to insert a pillow. See also HQ 956121, dated June 22, 1994, which classified a “pillow cover” with zipper closure under heading 6304, HTSUSA; and HQ 963484, which separately classified two finished cushion covers with zipper closures in heading 6304, HTSUSA.

In view of the foregoing, we have determined that HQ 965342, incorrectly classified the subject merchandise. The knit pillow cover is properly classified in heading 6304, HTSUSA.

HOLDING:

HQ 965342, dated July 17, 2002, is hereby revoked.

The subject knit pillow cover of 100 percent polyester is classified in sub-heading 6304.91.0040, HTSUSA, which provides for “Other furnishing articles, excluding those of heading 9404: Other: Knitted or crocheted, Of man-made fibers.” The general column one duty rate is 5.8 percent *ad valorem*. The textile category is 666.

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

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact the 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. section 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.*

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 966808  
September 22, 2004  
CLA-2 RR:CR:TE 966808 ASM  
CATEGORY: Classification  
TARIFF NO.: 6304.92.0000; 6304.93.0000

MS. HOLLY M. COOK  
LOUISVILLE BEDDING COMPANY  
10400 Bunsen Way  
Louisville, KY 40299

RE: Revocation of NY J86955, regarding classification of woven textile pillow covers with zipper closures

DEAR MS. COOK:

This is in regard to the Customs and Border Protection (CBP) New York Ruling Letter (NY) J86955, issued to you on August 21, 2003. We have reviewed this ruling and determined that the classification provided for this merchandise is incorrect. This ruling revokes NY J86955 by providing the correct classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) for certain woven textile pillow covers.

Pursuant to section 625(c), Tariff Act of 1930, 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, 2188 (1993) notice of the proposed revocation of NY J86955 was published on July 14, 2004, in Vol. 38, No. 29, of the *Customs Bulletin*. One comment was received in response to this notice.

FACTS:

In NY J86955, the subject article was described as a "pillow protector/pillowcover" (hereinafter "pillow cover") made from either 100 percent cotton woven fabric or 55 percent polyester and 45 percent cotton woven fabric. The fabric featured either a plain weave or a white on white stripe sateen weave. Three edges of the fabric were sewn closed and the fourth edge designed with a zipper closure. After importation, the cover was to be stuffed with a latex foam "bun" and the zipper closed. The cotton pillow cover was classified in subheading 6302.31.9040, HTSUSA, which provides for "Bed linen, table linen, toilet linen and kitchen linen: Other bed linen: Of Cotton: Other: Not napped, Pillowcovers." The pillow cover comprised of chief weight polyester was classified in subheading 6302.32.2060, HTSUSA, which provides for "Bed linen, table linen, toilet linen and kitchen linen: Other bed linen: Of man-made fibers: Other, Other: Other."

ISSUE:

What is the proper classification for the merchandise?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the heading

and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The commenter states that the scope of the proposed revocation is unclear and asserts that pillow covers, zippered or otherwise, should not be classified in heading 6304, HTSUSA. The commenter further asserts that when classifying this type of product, the focus should be on the article’s function or purpose, which is believed to be simply a component of an unfinished pillow. The commenter characterizes this article as a pillow “shell” which merely forms the outermost portion of a pillow. Thus, the commenter suggests that the merchandise be classified as “other made up articles” in heading 6307, HTSUSA.

We disagree with the commenter’s assertions and begin by noting that the subject article is not classifiable as “bed linen” of heading 6302, HTSUSA. Specifically, pillow protectors which are sold separately and designed for use as protective covers for the pillow or as allergen barriers for the user, have been classified in heading 6302, HTSUSA. *See* Headquarters Ruling Letter (HQ) 088548, May 22, 1991; NY E83934, July 26, 1999; NY H80682, May 31, 2001; NY J88376, September 18, 2003, and NY J89412, October 15, 2003. In this instance, the subject article is designed to be sold with the latex foam bun as an integral part of the pillow.

In revoking NY J86955, we are relying on established precedent wherein CBP has distinguished between pillow shells and covers. The major distinction is that a cover is a finished item with some means of closure while a shell is unfinished. CBP has consistently ruled that finished pillow or cushion covers with zipper closures are classifiable in heading 6304, HTSUSA. In Headquarters Ruling Letter (HQ) 964490, dated October 19, 2000, a knit polyester fleece cover for a neck pillow, having a zipper closure on one side and designed to be filled with loose polyester fiber after importation into the United States, was classified under subheading 6304.91.0040, HTSUSA, which provides for “Other furnishing articles, excluding those of heading 9404: Other: Knitted or crocheted, Of man-made fibers.” In HQ 088340, dated January 4, 1990, CBP classified two different styles of “pillow covers” in heading 6304, HTSUSA: Style 1664 was constructed with a zippered opening; Style 8802 did not have a finished zipper closure but the back consisted of two over-lapping panels forming a pocket to insert a pillow. *See also* HQ 956121, dated June 22, 1994, which classified a “pillow cover” with zipper closure under heading 6304, HTSUSA; and HQ 963484, which separately classified two finished cushion covers with zipper closures in heading 6304, HTSUSA.

In view of the foregoing, it is our determination that the subject articles were incorrectly classified in NY J86955. The correct classification for these woven textile pillow covers with zipper closures is in heading 6304, HTSUSA.

**HOLDING:**

NY J86955, dated August 21, 2003, is hereby revoked.

The merchandise is correctly classified as follows: The pillow cover consisting of 100 percent cotton woven fabric is classified in subheading

6304.92.0000, HTSUSA, which provides for "Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of cotton." The general column one duty rate is 6.3 percent *ad valorem*. The textile category is 369. The pillow cover consisting of 55 percent polyester and 45 percent cotton woven fabric is classified in subheading 6304.93.0000, HTSUSA, which provides for "Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of synthetic fibers." The general column one duty rate is 9.3 percent *ad valorem*. The textile category is 666.

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

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact the 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. section 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.*