

Bureau of Customs and Border Protection

General Notices

Notice of Cancellation of Customs Broker Permit

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

ACTION: General Notice

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker local permits are canceled without prejudice.

<u>Name</u>	<u>Permit #</u>	<u>Issuing Port</u>
Evans, Wood and Mooring, Inc.	373	Los Angeles
MEC Transport Services Corp.	13618-P	San Francisco
Jose A. Mena	WTH	Miami
South Florida Customs Brokers, Inc.	GQ3	Miami
Exel Global Logistics, Inc.	20-02-233	New Orleans
Exel Global Logistics, Inc.	1101-02-4079	Philadelphia
MEC Transport Services Corp.	93031	Los Angeles
Kathleen R. Carlton	52-02-AMC	Miami
World Commerce Services Inc.	39-754	Chicago
Howard Fox	MM6	Chicago
Janet Bernal dba Happy Custom Brokers	52-03-AQB	Miami
Valerie Knapp-Banker	WFG	Miami
J.H. Bachmann, Inc.	805	New York
J.H. Bachmann, Inc.	39-W82	Chicago
J.H. Bachmann, Inc.	01-17-008	Savannah

DATED: November 15, 2004

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

[Published in the Federal Register, November 26, 2004 (69 FR 68950)]

Cancellation of Customs Broker License Due to Death of the License Holder

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

ACTION: General Notice

SUMMARY: Notice is hereby given that, pursuant to Title 19 of the Code of Federal Regulations § 111.51(a), the following individual Customs broker licenses and any and all permits have been cancelled due to the death of the broker:

<u>Name</u>	<u>License #</u>	<u>Port Name</u>
Frederic Alan Moede	10053	Los Angeles
Irvin Henry Shannon	01252	Nogales
Lawrence M. Lewis	03804	Norfolk

DATED: November 15, 2004

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

[Published in the Federal Register, November 26, 2004 (69 FR 68951)]

Notice of Cancellation of Customs Broker License

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

ACTION: General Notice

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker licenses are canceled without prejudice.

<u>Name</u>	<u>License #</u>	<u>Issuing Port</u>
Evans, Wood and Mooring, Inc.	11425	Los Angeles
South Florida Customs Brokers, Inc.	16898	Miami
ADCO I.T.S., Inc.	14361	Laredo
MEC Transport Services Corp.	13618	Los Angeles
J.H. Bachmann, Inc.	11765	New York

DATED: November 15, 2004

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

[Published in the Federal Register, November 26, 2004 (69 FR 68951)]

Notice of Cancellation of Customs Broker National Permit**AGENCY:** Bureau of Customs and Border Protection, U.S. Department of Homeland Security**ACTION:** General Notice

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker national permits are canceled without prejudice.

<u>Name</u>	<u>Permit #</u>	<u>Issuing Port</u>
J.H. Bachmann, Inc.	04-00064	Headquarters
MEC Transport Services Corp.	99-00265	Headquarters

DATED: November 15, 2004

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

[Published in the Federal Register, November 26, 2004 (69 FR 68951)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.

Washington, DC, November 24, 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.

Sandra L. Bell for MICHAEL T. SCHMITZ,
*Assistant Commissioner,
Office of Regulations and Rulings.*



19 CFR PART 177

PROPOSED MODIFICATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF SILYMARIN (MILK THISTLE) AND LEUCOANTHOCYANIN

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

ACTION: Notice of proposed modification of a tariff classification ruling letter and revocation of treatment relating to the classification of silymarin (milk thistle) and leucoanthocyanin.

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 CPB intends to modify a ruling concerning the tariff classification of silymarin (milk thistle) and leucoanthocyanin, under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CPB intends to revoke any treatment previously accorded by CPB to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATE: Comments must be received on or before January 7, 2005.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulation and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at 799 9th St. N.W., Washington, D.C., during regular business hours. Arrange-

ments to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Allyson Mattanah, General Classification Branch, (202) 572-8784.

SUPPLEMENTARY INFORMATION:

Background

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling pertaining to the tariff classification of silymarin (milk thistle) and leucoanthocyanin.

Although in this notice CPB is specifically referring to New York Ruling Letter (NY) 814027, dated February 2, 1996, 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 those identified. No further rulings have been found. This notice will cover any rulings on this merchandise that 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 advise CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs

intends to revoke any treatment previously accorded by CBP to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or CBP's previous interpretation of the Harmonized Tariff Schedule of the United States (HTSUS). Any person involved in substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or his agents for importations of merchandise subsequent to this notice.

The classification of silymarin and leucoanthocyanin in NY 814027 contradicts that of two other rulings, Headquarters Ruling Letter (HQ) 964338, dated March 28, 2001, and HQ 966566, dated October 21, 2003. In those rulings, respectively, silymarin and leucoanthocyanin were correctly classified in subheading 3824.90.28, the provision for "Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included: Other: Other: Mixtures containing 5% or more by weight of one or more aromatic or modified aromatic substances: Other." NY 814027 is set forth as Attachment "A" to this document. We are proposing to modify NY 814027 to make it consistent with the classifications of silymarin and leucoanthocyanin in HQs 964338 and 966566.

CBP, pursuant to 19 U.S.C. 1625(c)(1), intends to modify NY 814027, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 967099, set forth as Attachment "B" to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: November 19, 2004

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

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
NY 814027
February 2, 1996
CLA-2-13:RR:NC:FC:238 814027
CATEGORY: Classification
TARIFF NO.: 1302.19.4040

BRIAN S. GOLDSTEIN, ESQ.
TOMPKINS & DAVIDSON
One Astor Plaza
1515 Broadway, 43rd Floor
New York, NY 10036-8901

RE: The tariff classification of four vegetable extracts, imported in bulk form, from Italy

DEAR MR. GOLDSTEIN:

In your letter dated August 17, 1995, on behalf of your client, Indena USA Inc., you requested a tariff classification ruling.

The four subject products, which your client describes as "standardized herbal extracts", consist of four plant extracts, namely: Ginkgo biloba dry extract; Milk thistle (*Silybum marianum*); Leucoanthocyanins [(grape seed) *Vitis vinifera*]; and Bilberry (*Vaccinium myrtillus*). You have submitted flow charts from the manufacturer outlining the solvent extraction process used for each product, and have indicated in your letter that these extracts will be imported in bulk-powder form. You further indicate that, subsequent to importation and sale by your client, the extracts are combined with other ingredients and further processed into capsules and other similar forms for retail sale. The applicable subheading for the four subject products will be 1302.19.4040, Harmonized Tariff Schedule of the United States (HTS), which provides for: "Vegetable saps and extracts: Other: Ginseng; substances having anesthetic, prophylactic or therapeutic properties: Other: Other." The rate of duty will be 1.3 percent ad valorem.

This merchandise may be subject to the regulations of the Food and Drug Administration. You may contact them at 5600 Fishers Lane, Rockville, Maryland 20857, telephone number (301) 443-6553.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist C. Reilly at 212-466-5770.

ROGER J. SILVESTRI,
Director,
National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967099
CLA-2 RR:CR:GC 967099 AM
CATEGORY: CLASSIFICATION
TARIFF NO.: 1302.19.4040, 3824.90.2800

BRIAN S. GOLDSTEIN, ESQ.
TOMPKINS & DAVIDSON
One Astor Plaza
1515 Broadway, 43rd Fl.
New York, NY 10036-8901

RE: Modification of NY 814027; the tariff classification of Silymarin (milk thistle) and Leucoanthocyanin

DEAR MR. GOLDSTEIN:

This is in regard to New York Ruling Letter (NY) 814027, dated February 2, 1996, regarding the classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of silymarin (milk thistle) and leucoanthocyanin. That ruling held that the products were classified in subheading 1302.19.4040, HTSUS, the provision for "Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products: Vegetable saps and extracts: Other: Ginseng; substances having anesthetic, prophylactic or therapeutic properties: Other: Other."

The classification of silymarin and leucoanthocyanin (also known as grape seed extract) in NY 814027 contradicts that of two other rulings, Headquarters Ruling Letter (HQ) 964338, dated March 28, 2001, and HQ 966566, dated October 21, 2003. In those rulings, respectively, silymarin and leucoanthocyanin were correctly classified in subheading 3824.90.28, HTSUS, the provision for "Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Mixtures containing 5% or more by weight of one or more aromatic or modified aromatic substances: Other." Hence, we intend to modify NY 814027 to bring it in to conformity with the Headquarters rulings.

FACTS:

The silymarin here in issue is a yellow powder which contains 80% mixture of isomers of silymarin (silybin, silicristin and silidianin). Silymarin 80% is produced from milk thistle seeds.

The leucoanthocyanin here in issue is a brownish powder consisting of 90-95% oligomeric proanthocyanidin (OPC). OPC is a mixture of proanthocyanidin compounds in different degrees of polymerization. Some of the OPCs are catechins with a chemical formula of $C_{15}H_{14}O_6$ (The Merck Index, 11th ed.), dimers (two degrees), trimers (three degrees), etc. Due to these varying states of polymerization, the OPCs are not comprised of a single chemical compound, although the main chemical structures are identical. Leucoanthocyanin can be produced from either pine bark or grape seed.

According to flow charts submitted by the importer, all of the products are obtained through extraction and refining processes that target a particular family of chemicals in the plant such as isomers of silymarin or OPCs.

ISSUE:

What is the proper classification, under the HTSUS, of the silymarin and leucoanthocyanin extracts?

LAW AND ANALYSIS:

Merchandise imported into the U.S. is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context that requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any related section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in order. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related subheading notes and *mutatis mutandis*, to the GRIs. In interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. See T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

Furthermore, "it is a well-established principle that classification of an imported article must rest upon its condition as imported." E. T. Horn Company v. United States, Slip Op. 2003-20, (CIT, 2003), (citing Carrington Co. v. United States, 61 CCPA 77, 497 F.2d 902, 905 (CCPA 1974), United States v. Baker Perkins, Inc., 46 CCPA 128, (1959)).

The HTSUS provisions under consideration are as follows:

1302:	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products:
	Vegetable saps and extracts:
1302.19	Other:
	Ginseng; substances having anesthetic, prophylactic or therapeutic properties:
1302.19.40	Other
* * *	* * * * *
3824	Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included:

3824.90 Other:

Other:

Mixtures containing 5 percent or more by weight of one or more aromatic or modified aromatic substances:

3824.90.28 Other

EN 13.02 states, in pertinent part, the following:

(A) Vegetable saps and extracts.

The heading covers saps and extracts (vegetable products usually obtained by natural exudation or by incision, or extracted by solvents), **provided** that they are not specified or included in more specific headings of the Nomenclature (see list of exclusions at the end of Part (A) of this Explanatory Note).

These saps and extracts differ from the essential oils, resinoids and extracted oleoresins of heading 33.01, in that, apart from volatile odoriferous constituents, they contain a far higher proportion of other plant substances (e.g., chlorophyll, tannins, bitter principles, carbohydrates and other extractive matter).

The saps and extracts classified here include:

(1) Opium, the dried sap of the unripe capsules of the poppy (*Papaver somniferum*) obtained by incision of, or by extraction from, the stems or seed pods. It is generally in the form of balls or cakes of varying size and shape. However, concentrates of poppy straw containing not less than 50 % by weight of alkaloids are excluded from this heading (see Note 1 (f) to this Chapter).

* * * * *

(4) Pyrethrum extract, obtained mainly from the flowers of various pyrethrum varieties (e.g., *Chrysanthemum cinerariaefolium*) by extraction with an organic solvent such as normal hexane or "petroleum ether".

* * * * *

(11) Quassia amara extract, obtained from the wood of the shrub of the same name (*Simaroubaceae* family), which grows in South America. Quassin, the principal bitter extract of the wood of the *Quassia amara*, is a heterocyclic compound of heading 29.32.

* * * * *

(18) Papaw juice, whether or not dried, but not purified as papain enzyme. (The agglomerated latex globules can still be observed on microscopic examination.) Papain is excluded (heading 35.07).

* * * * *

(20) Cashew nutshell extract. The polymers of cashew nutshell liquid extract are, however, excluded (generally heading 39.11).

* * * * *

Examples of excluded preparations are: . . .

- (iv) Intermediate products for the manufacture of insecticides, consisting of pyrethrum extracts diluted by addition of mineral oil in such quantities that the pyrethrins content is less than 2 %, or with other substances such as synergists (e.g., piperonyl butoxide) added (heading 38.08).

All four of the substances in NY 814027 are obtained by sophisticated means such as solvent-solvent extraction, distillation, dialysis, chromatographic procedures, electrophoresis, etc. These processes result in a substance containing a targeted chemical compound or compounds along with ubiquitous plant material that need not be further removed for the manufacturers purposes.

Heading 1302, HTSUS, describes vegetable extracts. The EN's provide that vegetable products are usually obtained by natural exudation or by incision, or extracted by solvents. Furthermore, the EN distinguishes products of heading 1302 from products of 3301 by the amount of plant material they contain. Research into the extracts described by the ENs, however, reveals a variety of extraction and refining techniques. For instance, in HQ 963848, dated April 20, 2002, CBP took note of the EN that allows pyrethrum products containing over 2% pyrethrum to remain classified in heading 1302, HTSUS, in classifying a 50% pyrethrum product in heading 1302, HTSUS. We did so even though the original extracted oleoresin had been further purified removing much of the variety of material in the pyrethrum plant and thereby concentrating the pyrethrum content.

However, there appears to be a limit on the amount of purification that can occur before the product is classified in a later chapter. For instance, EN 13.02, explicitly excludes certain refined extracts of opium, quassia amara, papaw juice, and cashew nut shell liquid, once the refining process concentrates a certain group of chemical compounds to a particular point. Hence, poppy straw concentrates containing more than 50% alkaloids are excluded from heading 1302. Likewise, quassin, a chemical compound extracted and refined from the quassia amara shrub is classified in Chapter 29. Papain enzyme, once purified from the extraction process of papaw juice, is classified as an enzyme of Chapter 37. And polymers extracted and refined from cashew nut shell liquid are classified in Chapter 39 as polymers.

Following the reasoning in our prior rulings, and the tenet that we must classify goods as imported, we note that the leucoanthocyanin consists of over 90% mixtures of oligomeric proanthocyanidins (OPCs) and the silymarin consists of well over 80% of isomers of silymarin. Therefore, silymarin and leucoanthocyanin are relatively pure chemical products, albeit not separately defined chemical compounds of Chapter 29. Hence, they are classified in heading 3824, HTSUS, as a chemical product.

As opposed to the silymarin and leucoanthocyanin extracts, the other two products classified in NY 814027 (ie. ginkgo biloba and bilberry extracts) are mixtures consisting of only approximately 25% of a targeted compound or compounds. The remaining constituents of these extracts consist of a variety of plant substances and a small amount of solvent. Although the process of extraction is similar, ginkgo biloba and bilberry extracts contain a relatively greater variety of the original plant matter than silymarin and leucoanthocyanin extracts and therefore remain classified in heading 1302, HTSUS.

HOLDING:

NY 814027 is modified thus: silymarin and leucoanthocyanin are classified in subheading 3824.90.2800, HTSUSA, the provision for "Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Mixtures containing 5% or more by weight of one or more aromatic or modified aromatic substances: Other." The General column 1 rate of duty is 6.5%.

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

EFFECT ON OTHER RULINGS:

NY 814027 is modified as outlined above.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

19 CFR PART 177

**REVOCATION OF A RULING LETTER AND OF TREATMENT
RELATING TO TARIFF CLASSIFICATION OF CERTAIN
STEREOS INCORPORATING A DUAL CASSETTE DECK**

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

ACTION: Notice of revocation of a ruling letter and treatment relating to the 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") is revoking a ruling letter and any treatment on substantially identical transactions pertaining to the tariff classification of certain stereos incorporating a dual cassette deck under the Harmonized Tariff Schedule of the United States ("HTSUS"). Notice of this proposed action was published in the CUSTOMS BULLETIN on October 6, 2004. No comments were received in response to this notice.

EFFECTIVE DATE: This revocation is effective for merchandise entered or withdrawn from warehouses for consumption on or after February 6, 2005.

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 CBP obligations under 19 U.S.C 1625 (c)(1), a notice was published on October 6, 2004, in Vol. 38, No. 41 of the CUSTOMS BULLETIN, proposing to revoke a ruling letter pertaining to the tariff classification of certain stereos incorporating a dual cassette deck. 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 CBP during the comment period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. 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 CBPs previous interpretation of the Harmonized Tariff Schedule of the United States. Any person involved in substantially identical transactions should have advised CBP during this notice period. An importer's reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by this notice may raise the rebuttable pre-

sumption of lack of reasonable care on the part of the importer or its agents for importations subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking HQ 950522 to the extent that it does not reflect the interpretation set forth by CBP in HQ 950882, *et. al.*, and the analysis set forth in HQ 967280, which is set forth as the Attachment to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by the 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: November 19, 2004

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

Attachment

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967280
CLA-2 RR: CR: GC 967280 TPB
November 19, 2004
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.

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 was published on October 6, 2004, in Volume 38, Number 41 of the CUSTOMS BULLETIN. No comments were received in response to this notice.

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.

EFFECT ON OTHER RULINGS

HQ 950522, dated August 24, 1992, 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.

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


REVOCAION OF A RULING LETTER, MODIFICATION OF RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF CERTAIN HATS OF FINE ANIMAL HAIR

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

ACTION: Notice of revocation of a tariff classification ruling letter, modification of two tariff classification ruling letters and revocation of treatment relating to the classification of certain hats of fine animal hair.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), this notice advises interested parties that Customs & Border Protection (CBP) is revoking a ruling letter and modifying two ruling letters relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of certain hats of fine animal hair. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed revocation and modification was published in the *Customs Bulletin*, Volume 38, Number 42, on October 13, 2004. No comments were received in response to this notice.

EFFECTIVE DATE: Merchandise entered or withdrawn from warehouse for consumption on or after February 6, 2005.

FOR FURTHER INFORMATION CONTACT: Brian Barulich, Textiles Branch: (202) 572-8883.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility**."

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the Customs Bulletin, Vol. 38, No. 42, dated October 13, 2004, proposing to revoke New York Ruling Letter (NY) J85862, dated July 22, 2003, to modify NY H83073, dated August 3, 2001, and NY I80194, dated April 29, 2002, and to revoke any treatment previously accorded by CBP to substantially identical transactions. No comments were received in response to this notice.

As stated in the notice of revocation and modification, the notice covered 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 CBP during the 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 with 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.

In NY J85862, CBP classified three knit hats made of 70 percent cashmere and 30 percent silk, with fur trimming, in subheading 6505.90.3090, HTSUSA, as being "of wool." In NY H83073, CBP classified a beret style hat made of alpaca wool fabric in subheading

6505.90.4090, HTSUSA, as being "of wool." In NY I80194, CBP classified two cable knit hats made of 70 percent angora hair, twenty percent rabbit hair, and ten percent nylon in subheading 6505.90.3090, HTSUSA, as being "of wool." Based on our review of NY J85862, NY H83073, and NY I80194, we find that the hats referred to in the above paragraph are made of "fine animal hair" and are not "of wool." Accordingly, they should be classified in subheading 6505.90.9045, HTSUSA, which provides for "Hats and other headgear . . . : Other: Other: Other: Of fine animal hair."

Pursuant to 19 U.S.C. 1625 (c)(1), CBP is revoking NY J85862 and modifying NY H83073 and NY I80194 and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analyses set forth in proposed Headquarters Ruling Letter (HQ) 967314, HQ 967315, and HQ 967316. 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: November 19, 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 967314
November 19, 2004
CLA-2: RR:CR:TE: 967314 BtB
CATEGORY: Classification
TARIFF NO.: 6505.90.9045

MR. RICHARD LOCURTO
CASSIN
150 West 30th Street, 5th Floor
New York, NY 10001

RE: Tariff classification of certain knit and fur hats from China; Revocation of NY J85862

DEAR MR. LOCURTO:

On July 22, 2003, our New York office issued to you New York Ruling Letter (NY) J85862, classifying three knit and fur hats from China under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA).

Upon review of that ruling, we have found that the classifications provided for the three hats are in error. This ruling letter, HQ 967314, hereby revokes NY J85862.

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, 2186 (1993), notice of the proposed revocation of NY J85862 was published in the *Customs Bulletin*, Volume 38, Number 42, on October 13, 2004. No comments were received in response to this notice.

FACTS:

We are referring to the classifications provided for the “Style CA1022R” hat, the “Style CA1022M” hat, and the “Style CA1022F” hat (collectively, the “hats”). The hats are identical in style, but are made with different types of fur which is attached to the outside of the crown. When the hats are viewed, you see the knit portion on the top of the head and the fur around the circumference of the head.

The hats have a knit crown of 70% cashmere and 30% silk. The “Style CA1022R” hat has rabbit fur attached to the crown, while the “Style CA1022M” has mink fur, and the “Style CA1022F” has fox fur.

In NY J85862, the hats were classified in subheading 6505.90.3090, HTSUSA, which provides for: “Hats and other headgear . . . : Other: Of wool: Knitted or crocheted or made up from knitted or crocheted fabric, Other.”

ISSUE:

What is the classification of the hats?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides, in part, that classification decisions are to be “determined according to the terms of the headings and any relative section or chapter notes.” In the event that goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied, in order. The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

Chapter 51 of the HTSUSA covers wool, fine or coarse animal hair, horse-hair yarn and woven fabric. Note 1 to Chapter 51 reads, in pertinent part:

1. Throughout the tariff schedule:
 - (a) “Wool” means the natural fiber grown by sheep or lambs;
 - (b) “Fine animal hair” means the hair of alpaca, llama, vicuna, camel, yak, Angora, Tibetan, **Kashmir** or similar goats (but not

common goats), rabbit (including Angora rabbit), hare, beaver, nutria or muskrat[.]¹

* * *

(Emphasis added).

Section XI, Note 2(A), HTSUSA, states, in pertinent part, that “[g]oods classifiable in chapters 50 to 55 or in heading 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over each other single textile material.” Subheading Note 2(A) to Section XI, HTSUSA, states that “[p]roducts of chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under note 2 to this section for classification of a product of chapters 50 to 55 or of heading 5809 consisting of the same textile materials.” Additional U.S. Rule of Interpretation 1(d), HTSUSA, provides that “the principles of section XI regarding mixtures of two or more textile materials shall apply to the classification of goods in any provision in which a textile material is named.”

It should be understood that Section XI, Note 2(A) applies to only material and only to the chapters and headings listed therein while Subheading Note 2(A) to Section XI makes Section Note 2(A) applicable to articles of textile material classifiable in Section XI. Further, Additional U.S. Rule of Interpretation 1(d) then makes Subheading Note 2(A) applicable to textile articles outside Section XI. Consequently, as the hats are textiles articles in which cashmere predominates by weight over silk, we will classify the hats as if consisting wholly of cashmere.

The EN to heading 6505 state that hats are classified in that heading regardless of whether they have been lined or trimmed. We consider the fur attached to the crown of each of the hats to be trimming. Therefore, the fur does not affect the classification of the hats.

In NY J85862, the hats were classified as being “of wool” in error. The articles are made of “fine animal hair” (i.e., the hair of the Kashmir goat) as defined in Note 1(b) to Chapter 51, HTSUSA, not “wool” as defined in Note 1(a) to Chapter 51, HTSUSA. Also see NY K85242, dated June 15, 2004, in which we classified a 100% cashmere hat in subheading 6505.90.9045, HTSUSA, which provides for, among other things, textile hats and other headgear of fine animal hair.

HOLDING:

The “Style CA1022R” hat, the “Style CA1022M” hat, and the “Style CA1022F” hat are classified in subheading 6505.90.9045, HTSUSA, which provides for “Hats and other headgear . . . : Other: Other: Of fine animal hair.” The general rate of duty for these style numbers will be 20.7 cents per kilogram plus 7.5 percent *ad valorem*. The textile category designation is 459.

NY J85862, dated July 22, 2003, is hereby revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

¹Kashmir goats are also known as “cashmere goats” and their hair is also known as “cashmere.”

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.

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 your local CBP office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

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

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967315
November 19, 2004
CLA-2: RR:CR:TE: 967315 BtB
CATEGORY: Classification
TARIFF NO.: 6505.90.9045

MR. ROGER EVANS
LA LLAMA ENTERPRISES LTD.
2416 Black Franks Drive
Nanaimo, BC V9T 3K5
Canada

RE: Tariff classification of a certain hat from Peru; Modification of NY H83073

DEAR MR. EVANS:

On August 3, 2001, our New York office issued to you New York Ruling Letter (NY) H83073, classifying two scarves and one hat from Peru under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). Upon review of that ruling, we have found that the classification provided for the hat is in error. This ruling letter, HQ 967315, hereby modifies NY H83073 in regard to the classification of that hat.

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, 2186 (1993), notice of the proposed modification of NY H83073 was published in the *Customs Bulletin*, Volume 38, Number 42, on October 13, 2004. No comments were received in response to this notice.

FACTS:

We are referring to the classification provided for the "Style A-017 beret hat." The hat is a "beret style hat with a button at the top and a fabric lin-

ing.” The outer shell of the hat is composed of woven alpaca wool fabric. The composition of the fabric lining is not known.

In NY H83073, the hat was classified in subheading 6505.90.4090, HTSUSA, which provides for: “Hats and other headgear . . . : Other: Of wool: Other, Other: Other.”

ISSUE:

What is the classification of the hat?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides, in part, that classification decisions are to be “determined according to the terms of the headings and any relative section or chapter notes.” In the event that goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied, in order. The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. See T.D. 89–80, 54 Fed. Reg. 35127–28 (Aug. 23, 1989).

Chapter 51 of the HTSUSA covers wool, fine or coarse animal hair, horse-hair yarn and woven fabric. Note 1 to Chapter 51 reads, in pertinent part:

1. Throughout the tariff schedule:
 - (a) “Wool” means the natural fiber grown by sheep or lambs;
 - (b) “Fine animal hair” means the hair of **alpaca**, llama, vicuna, camel, yak, Angora, Tibetan, Kashmir or similar goats (but not common goats), rabbit (including Angora rabbit), hare, beaver, nutria or muskrat[.]

* * *

(Emphasis added).

The woven alpaca wool fabric shell imparts the essential character to the hat.¹ Furthermore, the EN to heading 6505 state that hats are classified in that heading regardless of whether they have been lined. In NY H83073, the hat was classified as being “of wool” in error. The hat is made of “fine animal hair” (i.e., the hair of the alpaca) as defined in Note 1(b) to Chapter 51, HTSUSA, not “wool” as defined in Note 1(a) to Chapter 51, HTSUSA. Also see NY G83565, dated November 13, 2002, in which we classified two hats composed of knitted alpaca fabric in subheading 6505.90.9045, HTSUSA, which provides for, among other things, textile hats and other headgear of fine animal hair.

¹ While we have recognized that linings do impart desirable and, sometimes, necessary features to apparel articles, it is generally the outer shell which creates the article and, thus, imparts the essential character. See, e.g., HQ 952437, dated October 23, 1992.

HOLDING:

The "Style A-017 beret hat" is classified in subheading 6505.90.9045, HTSUSA, which provides for "Hats and other headgear . . . : Other: Other: Other: Of fine animal hair." The general rate of duty for the hat will be 20.7 cents per kilogram plus 7.5 percent *ad valorem*. The textile category designation is 459.

NY H83073, dated August 3, 2001, is hereby modified in regard to the classification of the "Style A-017 beret hat." In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

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.

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 your local CBP office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

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

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967316
November 19, 2004
CLA-2: RR:CR:TE: 967316 BtB
CATEGORY: Classification
TARIFF NO.: 6505.90.9045

MR. CHARLES D. ASHEAR
PARIS ASIA, LTD.
350 Fifth Avenue - Floor 70
New York, New York 10118

RE: Tariff classification of certain hats from China; Modification of NY I80194

DEAR MR. ASHEAR:

On April 29, 2002, our New York office issued New York Ruling Letter (NY) I80194 to Mr. John B. Pellegrini, counsel for Paris Asia, Ltd., classifying two cable knit hats and a headband from China under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). As you requested, we are copying Mr. Pellegrini on this ruling letter. Upon review of NY I80194, we have found that the classifications provided for the two hats

are in error. This ruling letter, HQ 967316, hereby modifies NY I80194 in regard to the classification of those hats.

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, 2186 (1993), notice of the proposed modification of NY I80194 was published in the *Customs Bulletin*, Volume 38, Number 42, on October 13, 2004. No comments were received in response to this notice.

FACTS:

We are referring to the classifications provided for the “Style 9576” and “Style 7580” hats. The Style 9576 is an envelope-style cable knit hat with tassels at the front and back. Style 7580 is a helmet-style cable knit hat. Both hats are made of 70 percent angora hair, 20 percent rabbit hair, and 10 percent nylon.

In NY I80194, the hats were classified in subheading 6505.90.3090, HTSUSA, which provides for: “Hats and other headgear . . . : Other: Of wool: Knitted or crocheted or made up from knitted or crocheted fabric, Other: Other.”

ISSUE:

What is the classification of the hats?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides, in part, that classification decisions are to be “determined according to the terms of the headings and any relative section or chapter notes.” In the event that goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied, in order. The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

Chapter 51 of the HTSUSA covers wool, fine or coarse animal hair, horse-hair yarn and woven fabric. Note 1 to Chapter 51 reads, in pertinent part:

1. Throughout the tariff schedule:
 - (a) “Wool” means the natural fiber grown by sheep or lambs;
 - (b) “Fine animal hair” means the hair of alpaca, llama, vicuna, camel, yak, Angora, Tibetan, Kashmir or similar goats (but not common goats), rabbit (including Angora rabbit), hare, beaver, nutria or muskrat[.]

* * *

Section XI, Note 2(A), HTSUSA, states, in pertinent part, that “[g]oods classifiable in chapters 50 to 55 or in heading 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over each other

single textile material." Subheading Note 2(A) to Section XI, HTSUSA, states that "[p]roducts of chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under note 2 to this section for classification of a product of chapters 50 to 55 or of heading 5809 consisting of the same textile materials." Additional U.S. Rule of Interpretation 1(d), HTSUSA, provides that "the principles of section XI regarding mixtures of two or more textile materials shall apply to the classification of goods in any provision in which a textile material is named."

It should be understood that Section XI, Note 2(A) applies to only material and only to the chapters and headings listed therein while Subheading Note 2(A) to Section XI makes Section Note 2(A) applicable to articles of textile material classifiable in Section XI. Further, Additional U.S. Rule of Interpretation 1(d) then makes Subheading Note 2(A) applicable to textile articles outside Section XI. Consequently, as the hats are textiles articles in which angora hair predominates by weight, we will classify the hats as if consisting wholly of angora hair.

In NY I80194, the hats were classified as being "of wool" in error. The hats are in chief weight of "fine animal hair" (i.e., angora hair) as defined in Note 1(b) to Chapter 51, HTSUSA, not "wool" as defined in Note 1(a) to Chapter 51, HTSUSA.

HOLDING:

The "Style 9576" and "Style 7580" hats are classified in subheading 6505.90.9045, HTSUSA, which provides for "Hats and other headgear . . . : Other: Other: Of fine animal hair." The general rate of duty for the hats will be 20.7 cents per kilogram plus 7.5 percent *ad valorem*. The textile category designation is 459.

NY I80194, dated April 29, 2002, is hereby modified in regard to the classification of these styles of hats. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

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.

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 your local CBP office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

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