

Bureau of Customs and Border Protection

CBP Decisions

DEPARTMENT OF THE TREASURY

19 CFR PARTS 12, 102, 141, 144, 146, and 163

CBP Dec. 05-32

RIN 1505-AB60

COUNTRY OF ORIGIN OF TEXTILE AND APPAREL PRODUCTS

AGENCY: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document sets forth interim amendments to the Customs and Border Protection (“CBP”) regulations to update, restructure, and consolidate the regulations relating to the country of origin of textile and apparel products. The interim amendments reflect changes brought about, in part, by the expiration on January 1, 2005, of the Agreement on Textiles and Clothing (“ATC”) and the resulting elimination of quotas on the entry of textile and apparel products from World Trade Organization (“WTO”) members. The primary regulatory change set forth in this document is the elimination of the requirement that a textile declaration be submitted for all importations of textile and apparel products. In addition, to improve the quality of reporting of the identity of the manufacturer of imported textiles and apparel products, the interim amendments include a requirement that importers identify the manufacturer of such products through a manufacturer identification code (“MID”).

DATES: Interim rule effective [insert date of publication in the **Federal Register**]; comments must be received by December 5, 2005.

ADDRESSES: You may submit comments, identified by the docket number, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail, hand delivery or courier: paper, disk or CD-ROM submissions may be mailed or delivered to the Trade and Commercial Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, N.W. (Mint Annex), Washington, D.C. 20229.

Instructions: All submissions received must include the agency name, document title, and docket number (if available) or Regulatory Information Number (“RIN”) for this rulemaking.

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>. Submitted comments also may be inspected at the Trade and Commercial Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection, 799 9th Street, N.W. (5th Floor), Washington, D.C. during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Operational aspects: Roberts Abels, Textile Operations, Office of Field Operations (202) 344–1959.

Legal aspects: Cynthia Reese, Tariff Classification and Marking Branch, Office of Regulations and Rulings (202) 572–8812.

SUPPLEMENTARY INFORMATION:

BACKGROUND

CBP notes initially that in this document, references to the Customs Service or Customs concern the former Customs Service or actions undertaken by the former Customs Service prior to its transfer to the Department of Homeland Security (“DHS”) under the Homeland Security Act and the Reorganization Plan Modification for DHS of January 30, 2003.

On May 9, 1984, the President issued Executive Order 12475 to address a number of problems that had arisen in the context of the U.S. textile import program. These problems included (1) the absence of specific regulatory standards for determining the origin of imported textiles and textile products for purposes of textile agreements and (2) an ever increasing number and variety of instances in which attempts were made to circumvent and frustrate the objectives of the United States textile import program and the bilateral and multilateral textile agreements negotiated thereunder. Section 1(a) of that Executive Order instructed the Secretary of the Treasury, in accordance with policy guidance from the interagency Committee for the Implementation of Textile Agreements (CITA), to issue

regulations governing the entry of textiles and textile products subject to section 204 of the Agricultural Act of 1956, as amended (codified at 7 U.S.C. 1854).

In T.D. 85–38, published in the **Federal Register** (50 FR 8710) on March 5, 1985, the Customs Service adopted as a final rule interim amendments to Part 12 of the CBP Regulations (19 CFR Part 12), which involved the addition of a new § 12.130 that established criteria to be used in determining the country of origin of imported textiles and textile products for purposes of multilateral or bilateral textile agreements entered into by the United States pursuant to section 204, Agricultural Act of 1956, as amended. In that final rule document, Customs stated that the principles of origin contained in § 12.130 are applicable to merchandise for all purposes. In T.D. 90–17, published in the **Federal Register** (55 FR 7303) on March 1, 1990, which involved a change of practice to conform several previously published Customs positions to certain provisions within 19 CFR 12.130, Customs again stated that the criteria set forth in 19 CFR 12.130 should be used in making country of origin determinations for all CBP purposes.

On December 8, 1994, the President signed into law the Uruguay Round Agreements Act (“URAA”), Public Law 103–465, 108 Stat. 4809. Subtitle D of Title III of the URAA concerns textiles and includes section 334 (codified at 19 U.S.C. 3592). Paragraph (a) of section 334 directed the Secretary of the Treasury to prescribe rules implementing the principles contained in paragraph (b) of section 334 for determining the origin of textile and apparel products. After the enactment of 19 U.S.C. 3592, 7 U.S.C. 1854 was no longer the only statute relevant to the administration of quantitative restrictions on textile products. The principles set forth in section 334 of the URAA for determining the country of origin of textile and apparel products apply for the purposes of the customs laws and the administration of quantitative restrictions, except as otherwise provided for by statute. However, section 334(b)(5) of the URAA excepts from the rules of origin governing textile and apparel products set forth in section 334 goods which, under rulings and administrative practices in effect immediately before the enactment of section 334 (December 8, 1994), would have originated in, or been the growth, product, or manufacture of, Israel.

In T.D. 95–69, published in the **Federal Register** (60 FR 46188) on September 5, 1995, Customs issued final amendments to the CBP regulations (set forth principally at 19 CFR 102.21) to implement the provisions of § 334 of the URAA regarding the country of origin of textile and apparel products. The rules set forth in § 102.21, which became effective for goods entered, or withdrawn from warehouse, for consumption on or after July 1, 1996, are used to determine the country of origin of textile and apparel products subject to manufacture or processing in all countries, except Israel. With the creation of

§ 102.21 to implement § 334 of the URAA, the principles of origin set forth in § 12.130 are used for the purpose of determining whether Israel is the country of origin for imported textile and apparel products. If Israel is found not to be the country of origin of a textile or apparel product by application of § 12.130, then the rules set forth in § 102.21 are used to determine the product's country of origin. However, the application of § 102.21 under these circumstances cannot result in a determination that Israel is the country of origin of the product. *See* "Determination of Origin of Textile Goods Processed in Israel," General Statement of Policy, published in the **Federal Register** (61 FR 40076) on July 31, 1996.

As § 12.130 exists currently, paragraph (a) defines the scope of textile and textile products subject to section 204, Agricultural Act of 1956, as amended, as including merchandise which is subject to the Multifiber Arrangement Regarding International Trade in Textiles ("MFA") and identifies such merchandise based on value or weight of specified fibers. Paragraph (b) of § 12.130 sets out the standards for determining the country of origin of a textile or textile product subject to section 204, Agricultural Act of 1956, as amended. It further provides that the procedures set forth in Part 102 are to be used to determine the origin of products of Canada and Mexico as well as the origin of textile and apparel products covered by § 102.21.

Paragraph (c) of § 12.130 sets forth principles for determining the country of origin of certain textiles or textile products that are exported for processing and returned. Paragraph (c)(1) refers to U.S. Note 2, Subchapter II, Chapter 98, HTSUS, and therefore covers products of the United States that are returned after having been advanced in value, improved in condition, or assembled outside the United States. Paragraph (c)(1) provides that those products, upon their return to the United States, may not be considered products of the United States. Paragraph (c)(2) applies the same rule to products of insular possessions of the United States and thus provides that those products, if imported into the United States after having been advanced in value, improved in condition, or assembled outside the insular possessions, are not to be treated as products of those insular possessions.

It is noted that, pursuant to T.D. 00-44, an interpretative rule published in the **Federal Register** (65 FR 42634) on July 11, 2000, CBP no longer applies § 12.130(c) for purposes of country of origin marking of textiles and textile products.

Paragraphs (d) and (e) of § 12.130 set forth factors to consider in determining whether the standard for determining the country of origin of a textile or textile product set out in paragraph (b) has been met. Paragraph (f) of § 12.130 requires the submission of a textile declaration for importations of textiles and textile products subject to section 204, Agricultural Act of 1956, as amended. The textile declaration sets forth information regarding the country of origin of the

imported products. Paragraphs (g) and (h) of § 12.130 authorize the port director to require the submission of additional information regarding the origin of textiles and textile products. Paragraph (i) of § 12.130 defines “date of exportation” for quota, visa or export license requirements, and statistical purposes, for textiles or textile products subject to section 204 of the Agricultural Act of 1956, as amended.

On January 1, 2005, the Agreement on Textiles and Clothing (“ATC”) expired. The ATC was the successor agreement to the Multifiber Arrangement Regarding International Trade in Textiles (“MFA”) which governed international trade in textiles and apparel through the use of quantitative restrictions. The ATC provided for the integration of textiles and clothing into the General Agreement on Tariffs and Trade (“GATT”) regime over a 10-year transition period. With the conclusion of the 10-year period, the integration was complete and the ATC thus expired. As of January 1, 2005, textiles and apparel products of World Trade Organization members are no longer subject to quantitative restrictions for entry of such products into the United States. The one exception to this would be for textiles and textile products subject to safeguard actions taken under China’s Accession Agreement to the World Trade Organization.

The United States retains bilateral textile agreements with certain countries that are not members of the World Trade Organization. Textile products from these countries remain subject to applicable restraints which are enforced by CBP pursuant to directives from the Chairman of CITA.

By letter dated February 11, 2005, CITA, through its chairman, requested that CBP review the regulations set forth in § 12.130 and recommend appropriate changes in light of the conclusion of the ten-year transition period for the integration of the textiles and apparel sector into GATT 1994 to ensure ongoing enforcement of trade in textiles and apparel. By letter dated February 23, 2005, CBP responded to CITA’s request. CITA agreed by letter dated May 4, 2005, that § 12.130 should be amended at this time and responded to the recommendations offered by CBP in response to CITA’s solicitation of February 11, 2005. By letter dated July 28, 2005, the Department of the Treasury, pursuant to the authority retained by the Department of the Treasury over the customs revenue functions defined in the Homeland Security Act, and pursuant to section 204 of the Agricultural Act of 1956, as amended, as that authority is delegated by Executive Order 11651 of March 3, 1972, and Executive Order 12475 of May 9, 1984, and in accordance with the policy guidance, recommendation and direction provided by the Chairman of CITA in his letter of May 4, 2005, authorized and directed the Department of Homeland Security to promulgate, as immediately effective regulations, amendments to the CBP regulations regarding the country of

origin of textiles and textile products, including changes to the method of reporting information relevant to the origin determination for textile and apparel products.

DISCUSSION OF AMENDMENTS:

With the implementation of the Harmonized Tariff Schedule of the United States (“HTSUS”), the expiration of the MFA and its successor, the ATC, and the enactment of section 334 of the URAA, certain of the provisions of § 12.130 have become out-of-date. Accordingly, CBP in this document is amending its regulations relating to the country of origin of textile and apparel products. In addition to revising and updating the provisions of § 12.130, this document also is re-designating revised § 12.130 as new § 102.22. This will consolidate the rules of origin for textiles and apparel products from all countries in Part 102 of the CBP regulations. As a consequence of relocating the provisions of § 12.130 to Part 102, § 12.130 is removed from the CBP regulations.

It is important to note that in this regulatory package CBP is eliminating the requirement that a textile declaration accompany importations of textiles and apparel products. This will reduce the paperwork burden on importers and is consistent with the movement toward paperless entries. However, pursuant to guidance from CITA and the Department of the Treasury, CBP is amending the CBP regulations to require that importers of textile and apparel products construct the manufacturer’s identification code (“MID”) which is declared at the time of entry from the name and address of the entity performing the origin-conferring operations. This requirement will better enable CBP to enforce trade in textile and apparel products.

CBP has closely consulted with CITA in the promulgation of the interim amendments set forth in this document. A discussion of the interim amendments is set forth below.

Section 102.0, which sets forth the scope of Part 102, is amended by including a summary of the provisions that are being relocated from Part 12 to Part 102 pursuant to the amendments promulgated by this document.

Paragraph (a) of § 12.130, which defines the scope of textile or textile products subject to section 204, Agricultural Act of 1956, as amended, includes outdated references to the MFA and to “chief value.” This document amends § 12.130(a) by re-designating this paragraph as paragraph (a) of new § 102.22 and by revising the provision to accord with the scope of coverage set forth in § 102.21. Specifically, a cross-reference to the definition of “textile or apparel products” in § 102.21(b)(5) is added to § 102.22(a). This will ensure uniformity of coverage between the regulations for determining the origin of textile and apparel products of Israel and the regulations for determining the origin of textile and apparel products of all other

countries. Consistent with the above, all references to “textile or textile product” in § 12.130 are replaced in new § 102.22 by the words “textile or apparel product,” which CBP considers to be synonymous with the former phrase.

Section 12.130(b) is amended by incorporating its provisions into paragraph (a) of new § 102.22 and by clarifying that § 102.22 applies, pursuant to section 334 of the URAA, only to textile and apparel products that are products of Israel.

Paragraph (c) of § 12.130, which concerns the origin of products of the United States and products of insular possessions of the United States that are exported for processing and returned, is removed. In view of the limitation of the origin rules of § 12.130 (now § 102.22) to products of Israel, § 12.130(c) no longer has an appropriate context since it has no relevance to products of Israel. In addition, with the expiration of the ATC, CBP believes this provision is unnecessary.

Paragraphs (d) and (e) of § 12.130 set forth factors to consider in determining whether the standard for determining the country of origin of a textile or textile product set forth in § 12.130(b) (now § 102.22(a)) has been met. Paragraphs (d) and (e) are amended by re-designating these provisions as paragraphs (b) and (c) of new § 102.22, respectively, and by clarifying that these paragraphs are applicable only in determining whether a good is a product of Israel, pursuant to section 334 of the URAA.

Paragraph (f) of § 12.130 is removed. As discussed above, this eliminates the requirement that a textile declaration accompany importations of textiles and textile products subject to section 204, Agricultural Act of 1956, as amended. As stated above, CBP is now requiring importers of textile and apparel goods to include on the CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary), and in all electronic data transmissions that require identification of the manufacturer, a manufacturer’s identification code (“MID”) which is derived from the name and address of the entity performing the origin-conferring operations. This requirement will assist CBP in verifying the country of origin of imported textile and apparel products, thereby upholding our international obligations by properly enforcing the international textile restraint agreements to which the United States is a party. CBP is responsible for correctly determining the country of origin of textile and apparel imports to prevent such goods from entering the United States with a false country of origin. The MID requirement will also assist in ensuring that only those textile imports that are eligible to receive preferential trade benefits receive those benefits. As this requirement applies to textile or apparel products from all countries, it is set forth in paragraph (a) of new § 102.23 of the CBP regulations. CBP also is amending Part 102 by adding an appendix to set forth rules for the proper construction of MIDs.

It is noted that importers of all goods are required to provide a manufacturer or shipper identification code at the time of entry. The MID requirement for textile or apparel goods described above differs from the identification code required for all products only in that the MID must identify the manufacturer of the imported product.

Paragraphs (g) and (h) of § 12.130 concern the circumstances under which CBP may require additional information regarding the origin of imported textile or apparel products and, if admissibility is an issue, deny the release of such products from CBP custody until their country of origin is determined. Paragraphs (g) and (h) are amended by combining the two provisions and re-designating them as paragraph (b) of new § 102.23, and by removing any references to textile declarations. New § 102.23(b) applies to textile or apparel products from all countries.

Paragraph (i) of § 12.130 is amended by re-designating this provision as paragraph (c) of new § 102.23 and by clarifying that this paragraph is applicable only to goods identified in 19 CFR 102.21(b)(5), regardless of the origin of such goods.

A new paragraph (d) is added to new § 102.22 to provide that the rules of origin set forth in § 102.21 are to be used to determine the country of origin of a textile or apparel product if Israel is determined not to be the country of origin of the product under § 102.22. This application of the rules of origin for textile or apparel products is consistent with CBP's practice since the implementation of section 334 of the URAA. *See* "Determination of Origin of Textile Goods Processed in Israel," General Statement of Policy, published in the **Federal Register** (61 FR 40076) on July 31, 1996.

Conforming changes are also being made in this document to §§ 141.113(b), 144.38(f)(1), and 146.63(d)(1) of the CBP regulations to replace references to "§ 12.130" with "§ 102.21 or § 102.22 of this chapter, as applicable."

Sections 12.131 and 12.132 set forth certain procedural matters regarding the entry of textiles and textile products in general, and the entry of textile and apparel products under the North American Free Trade Agreement (NAFTA), respectively. These sections are moved to Part 102 to follow the rules of origin for textile and apparel products set forth in § 102.21 and new §§ 102.22 and 102.23 as part of the consolidation of the textile regulations. Section 12.131 is amended by re-designating this provision as § 102.24, by replacing the references to "textiles and textile products" with the words "textile or apparel products," and by replacing the reference in paragraph (b) to "12.130" with the words "§ 102.21 or § 102.22 of this chapter, as applicable." Section 12.131(b) (now § 102.24(b)) is further amended by adding the words "or other company" in the first sentence after "factory, producer or manufacturer" to address a situation in which a company that is declared as the actual manufac-

turer at the time of entry is not a factory, producer or manufacturer but is a trading company or other type of company.

Section 12.132 is amended by re-designating this provision as new § 102.25 and by replacing the references to “textile and apparel goods” with the words “textile or apparel products.” As the requirement for the submission of a textile declaration has been eliminated, the language preceding paragraph (a)(1) of § 12.132 is removed, as are paragraphs (a)(1) and (a)(2), which concern declarations by manufacturers or producers. Paragraph (a)(3) of § 12.132, pertaining to incomplete declarations and the ability of the port director to determine the country of origin of merchandise, is retained although it is amended by deleting the reference to the textile declaration. Paragraph (b) of § 12.132 is also retained as part of new § 102.25.

Finally, this document amends Part 163 of the CBP regulations by removing from the list of entry records in the Appendix (the interim “(a)(1)(A) list”) the reference to former “§ 12.130” and the records listed thereunder and by replacing the reference to “§ 12.132” in the Appendix with “§ 102.25.”

COMMENTS

Before adopting these interim regulations as a final rule, consideration will be given to any written comments from the general public, including state, local, and tribal governments, that are timely submitted to CBP, including comments on the clarity of the interim regulations and how they may be made easier to understand. All such comments received from the public pursuant to this interim rule document will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 103.11(b), CBP regulations (19 CFR 103.11(b)), during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Customs and Border Protection, 799 9th Street, N.W. (5th Floor), Washington, D.C. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768. Comments may also be accessed at the Federal eRuling Portal. For additional information on accessing comments via the Federal eRulingmaking Portal, see the “ADDRESSES” section of this document.

INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Under the Administrative Procedure Act (“APA”) (5 U.S.C. 553), agencies generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on proposed regulatory amendments, consider public comments in deciding on the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. How-

ever, section 553(a)(1) of the APA provides that the standard notice and comment procedures do not apply to an agency rulemaking to the extent that it involves a foreign affairs function of the United States. The Department of the Treasury has directed that these regulations be promulgated as immediately effective interim regulations because they involve a foreign affairs function of the United States.

In order to implement import policies with respect to textiles and textile products, Congress provided authority to the President to negotiate textile restraint agreements in section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the authority to carry out such agreements by issuing regulations governing the entry of merchandise covered by the agreements into the United States. The amendments set forth in this document, which are promulgated in large part pursuant to 7 U.S.C. 1854, revise, update, and restructure the regulations relating to the country of origin of textile and apparel products. The primary function of these amendments is to facilitate the correct reporting (and deter the fraudulent reporting) of the origin of textile and apparel imports, thereby preventing the circumvention or frustration of the bilateral textile restraint agreements which remain in force or which may be negotiated in the future as well as prevent the contravention of actions taken by CITA pursuant to the textile safeguard provisions of China's WTO Accession Agreement. The interim regulations set forth in this document directly impact upon the administration and enforcement of the remaining quantitative limitations in bilateral trade agreements and the unilaterally imposed restrictions on textile imports by ensuring, to the greatest extent possible, that the correct country of origin is attributed to all textile imports.

In addition, by improving the proper reporting of the country of origin of textile imports, these interim regulations will facilitate enforcement and administration of the various bilateral and multilateral free trade agreements with which the United States is a party by helping to ensure that only those textile products that are entitled to trade benefits receive those benefits.

For the above reasons, it has also been determined that prior notice and public procedure, and a delayed effective date, are impracticable, unnecessary and contrary to the public interest pursuant to 5 U.S.C. 553(b)(B) and 553(d)(3), respectively.

EXECUTIVE ORDER 12866 AND REGULATORY FLEXIBILITY ACT

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order

12866. Because a notice of proposed rulemaking is not required under section 553(b) of the APA for the reasons described above, CBP notes that the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 et seq.), do not apply to this rulemaking. Accordingly, CBP also notes that this interim rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

PAPERWORK REDUCTION ACT

The collections of information in these interim regulations (the identification of the manufacturer on CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary)) have been previously reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control numbers 1651-0024 and 1651-0022, respectively. This interim rule clarifies that the manufacturer to be identified on entries of textile and apparel products must consist of the entity performing the origin-conferring operations.

DRAFTING INFORMATION

The principal authors of this document were Cynthia Reese and Craig Walker, Office of Regulations and Rulings, Customs and Border Protection. However, personnel from other offices participated in its development.

SIGNING AUTHORITY

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his delegate) to approve regulations related to certain CBP revenue functions.

LIST OF SUBJECTS

19 CFR Part 12

Customs duties and inspection, Entry of merchandise, Imports, Reporting and recordkeeping requirements, Textiles and textile products, Trade agreements.

19 CFR Part 102

Customs duties and inspections, Imports, Reporting and recordkeeping requirements, Rules of origin, Trade agreements.

19 CFR Part 141

Bonds, Customs duties and inspection, Entry of merchandise, Release of merchandise, Reporting and recordkeeping requirements.

19 CFR Part 144

Bonds, Customs duties and inspection, Reporting and recordkeeping requirements, Warehouses.

19 CFR Part 146

Bonds, Customs duties and inspection, Entry, Foreign trade zones, Imports, Reporting and recordkeeping requirements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Trade agreements.

AMENDMENTS TO THE REGULATIONS

Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

PART 12 – SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for Part 12 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS), 1624;

* * * * *

2. The specific authority citation for §§ 12.130 and 12.131 is removed.

3. The heading “TEXTILES AND TEXTILE PRODUCTS” and §§ 12.130, 12.131, and 12.132 are removed.

PART 102 – RULES OF ORIGIN

1. The general authority citation for Part 102 is revised to read as follows:

Authority: 7 U.S.C. 1854, 19 U.S.C. 66, 1202 (General Note 3(i) Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

2. Section 102.0 is revised to read as follows:

§ 102.0 Scope.

With the exception of §§ 102.21 through 102.25, this part sets forth rules for determining the country of origin of imported goods for the purposes specified in paragraph 1 of Annex 311 of the North American Free Trade Agreement (“NAFTA”). These specific purposes are: country of origin marking; determining the rate of duty and staging category applicable to originating textile and apparel products as set out in Section 2 (Tariff Elimination) of Annex 300–B (Textile and Apparel Goods); and determining the rate of duty and staging category applicable to an originating good as set out in Annex 302.2 (Tariff Elimination). The rules for determining the country of origin of textile and apparel products set forth in § 102.21 apply for

the foregoing purposes and for the other purposes stated in that section. Section 102.22 sets forth rules for determining whether textile and apparel products are considered products of Israel for purposes of the customs laws and the administration of quantitative limitations. Sections 102.23 through 102.25 set forth certain procedural requirements relating to the importation of textile and apparel products.

3. New §§ 102.22 through 102.25 are added to read as follows:

§ 102.22 Rules of origin for textile and apparel products of Israel.

(a) Applicability. The provisions of this section will control for purposes of determining whether a textile or apparel product, as defined in § 102.21(b)(5) of this part, is considered a product of Israel for purposes of the customs laws and the administration of quantitative limitations. A textile or apparel product will be a product of Israel if it is wholly the growth, product, or manufacture of Israel. However, a textile or apparel product that consists of materials produced or derived from, or processed in, another country, or insular possession of the United States, in addition to Israel, will be a product of Israel if it last underwent a substantial transformation in Israel. A textile or apparel product will be considered to have undergone a substantial transformation if it has been transformed by means of substantial manufacturing or processing operations into a new and different article of commerce.

(b) Criteria for determining country of origin for products of Israel. The criteria in paragraphs (b)(1) and (b)(2) of this section will be considered in determining whether an imported textile or apparel product is a product of Israel. These criteria are not exhaustive. One or any combination of criteria may be determinative, and additional factors may be considered.

(1) A new and different article of commerce will usually result from a manufacturing or processing operation if there is a change in:

- (i) Commercial designation or identity;
- (ii) Fundamental character; or
- (iii) Commercial use.

(2) In determining whether merchandise has been subjected to substantial manufacturing or processing operations, the following will be considered:

(i) The physical change in the material or article as a result of the manufacturing or processing operations in Israel or in Israel and a foreign territory or country or insular possession of the U.S.;

(ii) The time involved in the manufacturing or processing operations in Israel or in Israel and a foreign territory or country or insular possession of the U.S.;

(iii) The complexity of the manufacturing or processing operations in Israel or in Israel and a foreign territory or country or insular possession of the U.S.;

(iv) The level or degree of skill and/or technology required in the manufacturing or processing operations in Israel or in Israel and a foreign territory or country or insular possession of the U.S.; and

(v) The value added to the article or material in Israel or in Israel and a foreign territory or country or insular possession of the U.S., compared to its value when imported into the U.S.

(c) Manufacturing or processing operations.

(1) An article or material usually will be a product of Israel when it has undergone in Israel prior to importation into the United States any of the following:

(i) Dyeing of fabric and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decatizing, permanent stiffening, weighting, permanent embossing, or moireing;

(ii) Spinning fibers into yarn;

(iii) Weaving, knitting or otherwise forming fabric;

(iv) Cutting of fabric into parts and the assembly of those parts into the completed article; or

(v) Substantial assembly by sewing and/or tailoring of all cut pieces of apparel articles which have been cut from fabric in another foreign territory or country, or insular possession of the U.S., into a completed garment (e.g., the complete assembly and tailoring of all cut pieces of suit-type jackets, suits, and shirts).

(2) An article or material usually will not be considered to be a product of Israel by virtue of merely having undergone any of the following:

(i) Simple combining operations, labeling, pressing, cleaning or dry cleaning, or packaging operations, or any combination thereof;

(ii) Cutting to length or width and hemming or overlocking fabrics which are readily identifiable as being intended for a particular commercial use;

(iii) Trimming and/or joining together by sewing, looping, linking, or other means of attaching otherwise completed knit-to-shape component parts produced in a single country, even when accompanied by other processes (e.g., washing, drying, and mending) normally incident to the assembly process;

(iv) One or more finishing operations on yarns, fabrics, or other textile articles, such as showerproofing, superwashing, bleaching, decatizing, fulling, shrinking, mercerizing, or similar operations; or

(v) Dyeing and/or printing of fabrics or yarns.

(d) Results of origin determination. If Israel is determined to be the country of origin of a textile or apparel product by application of the provisions in paragraphs (a), (b), and (c) of this section, the inquiry into the origin of the product ends. However, if Israel is determined not to be the country of origin of a textile or apparel product by application of the provisions in paragraphs (a), (b), and (c) of this

section, the country of origin of the product will be determined under the rules of origin set forth in § 102.21 of this part, although the application of those rules cannot result in Israel being the country of origin of the product.

§ 102.23 Origin and Manufacturer Identification

(a) Textile or Apparel Product Manufacturer Identification. All entries of textile or apparel products listed in § 102.21(b)(5) of this part must identify on CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary), and in all electronic data transmissions that require identification of the manufacturer, the manufacturer of such products through a manufacturer identification code (MID) constructed from the name and address of the entity performing the origin-conferring operations pursuant to § 102.21 or § 102.22 of this part, as applicable. This code must be accurately constructed using the methodology set forth in the Appendix to this part, including the use of the two-letter International Organization for Standardization (ISO) code for the country of origin of such products. When a single entry is filed for products of more than one manufacturer, the products of each manufacturer must be separately identified. Importers must be able to demonstrate to CBP their use of reasonable care in determining the manufacturer. If an entry filed for such merchandise fails to include the MID properly constructed from the name and address of the manufacturer, the port director may reject the entry or take other appropriate action.

(b) Incomplete or insufficient information. If the port director is unable to determine the country of origin of a textile or apparel product, the importer must submit additional information as requested by the port director. Release of the product from CBP custody will be denied until a determination of the country of origin is made based upon the information provided or the best information available.

(c) Date of exportation. For quota, visa or export license requirements, and statistical purposes, the date of exportation for textile or apparel products listed in § 102.21(b)(5) of this part will be the date the vessel or carrier leaves the last port in the country of origin, as determined by application of § 102.21 or § 102.22 of this part, as applicable. Contingency of diversion in another foreign territory or country will not change the date of exportation for quota, visa or export license requirements or for statistical purposes.

§ 102.24 Entry of textile or apparel products.

(a) General. Separate shipments of textile or apparel products, including samples, which originate from a country subject to visa or export license requirements for exports of textile or apparel products, arriving in the customs territory of the United States for one consignee on the same conveyance on the same day, the combined value of which is over \$250, will not be entered under the informal entry procedures set forth in subpart C, Part 143 or procedures set

forth in § 141.52 of this chapter. Port directors will refuse separate informal entries and require a formal entry and visa or export license, as appropriate, for all such merchandise. A consignee for purposes of this section is the ultimate consignee and does not include a freight forwarder or Customs broker not importing for its own account.

(b) Denial of entry pursuant to directive. Textile or apparel products subject to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), whether or not the requirements set forth in § 102.21 or § 102.22 of this part, as applicable, have been met, will be denied entry where the factory, producer, manufacturer, or other company named in the entry documents for such textile or apparel products is named in a directive published in the FEDERAL REGISTER by the Committee for the Implementation of Textile Agreements as a company found to be illegally transshipping, closed or unable to produce records to verify production. In these circumstances, no additional information will be accepted or considered by CBP for purposes of determining the admissibility of such textile or apparel products.

§ 102.25 Textile or apparel products under the North American Free Trade Agreement.

In connection with a claim for NAFTA preferential tariff treatment involving non-originating textile or apparel products subject to the tariff preference level provisions of appendix 6.B to Annex 300-B of the NAFTA and Additional U.S. Notes 3 through 6 to Section XI, Harmonized Tariff Schedule of the United States, the importer must submit to CBP a Certificate of Eligibility covering the products. The Certificate of Eligibility must be properly completed and signed by an authorized official of the Canadian or Mexican government and must be presented to CBP at the time the claim for preferential tariff treatment is filed under § 181.21 of this chapter. If the port director is unable to determine the country of origin of the products, they will not be entitled to preferential tariff treatment or any other benefit under the NAFTA for which they would otherwise be eligible.

4. Part 102 is amended by adding an appendix to read as follows:

**APPENDIX TO PART 102 – TEXTILE AND APPAREL
MANUFACTURER IDENTIFICATION**

Rules for constructing the manufacturer identification code (MID)

1. Pursuant to § 102.23(a) of this part, all entries of textile or apparel products listed in § 102.21(b)(5) must identify on CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary), and in all electronic data transmissions that require identification of the manufacturer, the manufacturer of such products through a manufacturer identification code (MID) constructed from

the name and address of the entity performing the origin-conferring operations. The MID may be up to 15 characters in length, with no spaces inserted between the characters.

2. The first 2 characters of the MID consist of the ISO code for the actual country of origin of the goods. The one exception to this rule is Canada. "CA" is not a valid country code for the MID; instead, one of the appropriate province codes listed below must be used:

ALBERTA	XA
BRITISH COLUMBIA	XC
MANITOBA	XM
NEW BRUNSWICK	XB
NEWFOUNDLAND (LABRADOR)	XW
NORTHWEST TERRITORIES	XT
NOVA SCOTIA	XN
NUNAVUT	XV
ONTARIO	XO
PRINCE EDWARD ISLAND	XP
QUEBEC	XQ
SASKATCHEWAN	XS
YUKON TERRITORY	XY

3. The next group of characters in the MID consists of the first three characters in each of the first two "words" of the manufacturer's name. If there is only one "word" in the name, then only the first three characters from the name are to be used. For example, "Amalgamated Plastics Corp." would yield "AMAPLA," and "Bergstrom" would yield "BER." If there are two or more initials together, they are to be treated as a single word. For example, "A.B.C. Company" or "A B C Company" would yield "ABCCOM," "O.A.S.I.S. Corp." would yield "OASCOR," "Dr. S.A. Smith" would yield "DRSA," and "Shavings B L Inc." would yield "SHABL." The English words "a," "an," "and," "of," and "the" in the manufacturer's name are to be ignored. For example, "The Embassy of Spain" would yield "EMBSPA." Portions of a name separated by a hyphen are to be treated as a single word. For example, "Rawles-Aden Corp." or "Rawles – Aden Corp." would both yield "RAWCOR." Some names include numbers. For example, "20th Century Fox" would yield "20TCEN" and "Concept 2000" would yield "CON200."

a. Some words in the title of the foreign manufacturer's name are not to be used for the purpose of constructing the MID. For example, most textile factories in Macau start with the same words, "Fabrica de Artigos de Vestuario," which means "Factory of Cloth-

ing.” For a factory named “Fabrica de Artigos de Vestuario JUMP HIGH Ltd,” the portion of the factory name that identifies it as a unique entity is “JUMP HIGH.” This is the portion of the name that should be used to construct the MID. Otherwise, all of the MIDs from Macau would be the same, using “FABDE,” which is incorrect.

b. Similarly, many factories in Indonesia begin with the prefix PT, such as “PT Morich Indo Fashion.” In Russia, other prefixes are used, such as “JSC,” “OAO,” “OOO,” and “ZAO.” These prefixes are to be ignored for the purpose of constructing the MID.

4. The next group of characters in the MID consists of the first four numbers in the largest number on the street address line. For example, “11455 Main Street, Suite 9999” would yield “1145.” A suite number or a post office box is to be used if it contains the largest number. For example, “232 Main Street, Suite 1234” would yield “1234.” If the numbers in the street address are spelled out, such as “One Thousand Century Plaza,” no numbers representing the manufacturer’s address will appear in this section of the MID. However, if the address is “One Thousand Century Plaza, Suite 345,” this would yield “345.” When commas or hyphens separate numbers, all punctuation is to be ignored and the number that remains is to be used. For example, “12,34,56 Alaska Road” and “12-34-56 Alaska Road” would yield “1234.” When numbers are separated by a space, both numbers are recognized and the larger of the two numbers is to be selected. For example, “Apt. 509 2727 Cleveland St.” would yield “2727.”

5. The last characters in the MID consist of the first three letters in the city name. For example, “Tokyo” would yield “TOK,” “St. Michel” would yield “STM,” “18-Mile High” would yield “MIL,” and “The Hague” would yield “HAG.” Numbers in the city name or line are to be ignored. For city-states, the first three letters are to be taken from the country name. For example, Hong Kong would yield “HON,” Singapore would yield “SIN,” and Macau would yield “MAC.”

6. As a general rule, in constructing a MID, all punctuation, such as commas, periods, apostrophes, and ampersands, are to be ignored. All single character initials, such as the “S” in “Thomas S. Delvaux Company,” are also to be ignored, as are leading spaces in front of any name or address.

7. Examples of manufacturer names and addresses and their corresponding MIDs are listed below:

LA VIE DE FRANCE 243 Rue de la Payees 62591 Bremond, France	FRLAVIE243BRE
20TH CENTURY TECHNOLOGIES 5 Ricardo Munoz, Suite 5880 Caracas, Venezuela	VE20TCEN5880CAR

Fabrica de Artigos de Vestuario TOP JOB Grand River Building, Fl 2-4 Macau	MOTOPJOB24MAC
THE GREENHOUSE 45 Royal Crescent Birmingham, Alabama 35204	USGRE45BIR
CARDUCCIO AND JONES 88 Canberra Avenue Sidney, Australia	AUCARJON88SID
N. MINAMI & CO., LTD. 2-6, 8-Chome Isogami-Dori Fukiai-Ku Kobe, Japan	JPMINCO26KOB
BOCCHACCIO S.P.A. Visa Mendotti, 61 8320 Verona, Italy	ITBOCSPA61VER
MURLA-PRAXITELES INC. Athens, Greece	GRMURINCATH
SIGMA COY E.X.T. 4000 Smyrna, Italy 1640 Delgado	ITSIGCOY1640SMY
COMPANHIA TEXTIL KARSTEN Calle Grande, 25-27 67890 Lisbon, Portugal	PTKAR2527LIS
HURON LANDMARK 1840 Huron Road Windsor, ON, Canada N9C 2L5	XOHURLAN1840WIN

PART 141 - ENTRY OF MERCHANDISE

5. The general authority citation for Part 141 and specific authority citation for § 114.113 continue to read as follows:

Authority: 19 U.S.C. 66, 1448, 1624.

* * * * *

Section 141.113 also issued under 19 U.S.C. 1499, 1623.

6. In § 141.113, paragraph (b) is amended by removing the words "12.130 of this chapter" and by adding, in their place, the words "§ 102.21 or § 102.22 of this chapter, as applicable,".

PART 144 - WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

7. The general authority citation for Part 144 continues to read as follows:

Authority: 19 U.S.C. 66, 1484, 1557, 1559, 1624.

* * * * *

8. In § 144.38, paragraph (f)(1) is revised by removing the words “§ 12.130 of this chapter” and by adding, in their place, the words “§ 102.21 or § 102.22 of this chapter, as applicable”.

PART 146 – FOREIGN TRADE ZONES

9. The authority citation for Part 146 is revised to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624.

10. In § 146.63, paragraph (d)(1) is revised by removing the words “§ 12.130 of this chapter” and by adding, in their place, the words “§ 102.21 or § 102.22 of this chapter, as applicable”.

PART 163 – RECORDKEEPING

11. The authority citation for Part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1510, 1624.

12. The Appendix to Part 163 is amended by removing under § IV the listing of “§ 12.130 Textiles and textile products Single country declaration Multiple country declaration VISA” and the listing of “§ 12.132 NAFTA textile requirements”, and by adding a new listing under § IV in numerical order to read as follows:

Appendix to Part 163 – Interim (a)(1)(A) List.

* * * * *

IV. * * *

§ 102.25 NAFTA textile requirements

* * * * *

ROBERT C. BONNER,

Commissioner of Customs and Border Protection.

Approved: September 30, 2005

TIMOTHY E. SKUD,

Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, October 5, 2005 (70 FR 58009)]

*General Notice***COPYRIGHT, TRADEMARK, AND
TRADE NAME RECORDATIONS****(No. 8 2005)**

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

SUMMARY: Presented herein are the copyrights, trademarks, and trade names recorded with U.S. Customs and Border Protection during the month of August 2005. The last notice was published in the CUSTOMS BULLETIN on August 31, 2005.

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

FOR FURTHER INFORMATION CONTACT: Delois Johnson, Paralegal, Intellectual Property Rights Branch, (202) 572-8710.

Dated: September 29, 2005

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



U.S. CUSTOMS SERVICE
IPR RECORDATIONS ADDED IN AUGUST 2005

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PAGE 1
DETAIL

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TMM OR MSK	OWNER NAME	RES
COP0500098	20050812	20250812	TRUE RELIGION BRAND JEANS LABEL	GURU DENTM INC.	N
COP0500099	20050812	20250812	THE LEGEND OF ZELDA FOUR SWORDS ADVENTURE	NINTENDO OF AMERICA INC.	N
COP0500100	20050812	20250812	F-ZERO GX	NINTENDO OF AMERICA INC.	N
COP0500101	20050812	20250812	WARIOWARE TOUCHED!	JEAN CARD AND GIFT CO., LTD.	N
COP0500102	20050816	20250816	SERIAL NUMBER 9600603	JEAN CARD AND GIFT CO., LTD.	N
COP0500103	20050831	20250831	EYCATCHERS (TM): DEER	NEXT INNOVATIONS, LTD.	N
COP0500104	20050831	20250831	EYCATCHERS (TM): HUMMINGBIRD	NEXT INNOVATIONS, LTD.	N
COP0500105	20050831	20250831	EYCATCHERS (TM): SNAKE	NEXT INNOVATIONS, LTD.	N
COP0500106	20050831	20250831	EYCATCHERS (TM): SURFACE	NEXT INNOVATIONS, LTD.	N
COP0500107	20050831	20250831	EYCATCHERS (TM): BASS	NEXT INNOVATIONS, LTD.	N
COP0500108	20050831	20250831	EYCATCHERS (TM): DOLPHIN	NEXT INNOVATIONS, LTD.	N
COP0500109	20050831	20250831	EYCATCHERS (TM): DOLPHIN	NEXT INNOVATIONS, LTD.	N
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THK0500706	20050802	20150108	TIGER	ASICS CORPORATION	N
THK0500707	20050802	20081117	A.L. CHAMPIONS	OFFICE OF THE COMMISSIONER OF	N
THK0500708	20050802	20060824	FIFA 2 GOALS (DEVICE MARK)	FEDERATION INTERNATIONALE DE	N
THK0500709	20050802	20141108	WORLD SERIES CHAMPIONS	OFFICE OF THE COMMISSIONER OF	N
THK0500710	20050808	20150510	MAGIC BULLET	HOMELAND HOUSEWARES, LLC	N
THK0500711	20050808	20150510	THE MAGIC BULLET	HOMELAND HOUSEWARES, LLC	N
THK0500712	20050808	20150510	MAGIC BULLET & DESIGN	HOMELAND HOUSEWARES, LLC	N
THK0500713	20050808	20090907	CANDLELIGHT & CHAMPAGNE	REDCATS USA, L.P.	N
THK0500714	20050808	20121015	KINGS' COURT	REDCATS USA, L.P.	N
THK0500715	20050808	20110417	ALLISON WOODS	REDCATS USA, L.P.	N
THK0500716	20050808	20150402	PLAYBOY	PLAYBOY ENTERPRISES INT'L INC.	N
THK0500717	20050808	20150207	WOBBLE LIGHT	WOBBLE LIGHT, LLC.	N
THK0500718	20050809	20080829	CELLER LOGO	INTEL CORPORATION	N
THK0500719	20050809	20120616	CELLER	INTEL CORPORATION	N
THK0500720	20050809	20120616	TITANIUM	INTEL CORPORATION	N
THK0500721	20050809	20120616	INTEL XEON	INTEL CORPORATION	N
THK0500722	20050809	20080804	INTEL INSIDE	INTEL CORPORATION	N
THK0500723	20050809	20110615	INTEL	INTEL CORPORATION	N
THK0500724	20050809	20140817	SOFT SURFBOARDS	INTEL CORPORATION	N
THK0500725	20050809	20150401	RONALD McDONALD	SOFT SURFBOARDS INC.	N
THK0500726	20050809	20140515	MOREY BOOGIE	McDONALD'S CORPORATION	N
THK0500727	20050809	20130401	SNOW BOOGIE	WHAM-O, INC.	N
THK0500728	20050809	20060914	MONEY BOOGIE	WHAM-O, INC.	N
THK0500729	20050809	20080321	BZ	WHAM-O, INC.	N
THK0500730	20050809	20080321	BZ AND DESIGN	WHAM-O, INC.	N
THK0500731	20050809	20131130	MALIBU	WHAM-O, INC.	N
THK0500732	20050812	20140914	AQUACLIP	BRIAN P. CIZEK	N
THK0500733	20050812	20140406	G AND DESIGN	NINTENDO OF AMERICA INC.	N
THK0500734	20050816	20120709	DAFNE GREY	REDCATS USA, L.P.	N
THK0500735	20050816	20140706	HELSEA STUDIO	REDCATS USA, L.P.	N
THK0500736	20050816	20140706	HELSEA STUDIO	REDCATS USA, L.P.	N
THK0500737	20050816	20140113	DREAMS & CO.	REDCATS USA, L.P.	N

REC NUMBER	EFF DT	EXP DT	NAME OF COP, THK, TMN OR MSK	OWNER NAME	RES
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TMK0500738	20050816	20130311	ALL AMERICAN COMFORT	REDCATS USA, L.P.	N
TMK0500739	20050816	20130610	MAIN STREET BLUES	REDCATS USA, L.P.	N
TMK0500740	20050816	20100321	MAIN STREET CLASSICS & DESIGN	REDCATS USA, L.P.	N
TMK0500741	20050816	20110911	W W WOMEN WITHIN & DESIGN	REDCATS USA, L.P.	N
TMK0500742	20050816	20130610	PRO KING	REDCATS USA, L.P.	N
TMK0500743	20050816	20151105	COINTREAU	COINTREAU CORPORATION	N
TMK0500744	20050816	20150226	ELLE (STYLIZED)	HACHETTE FILIPACCHI PRESSE	N
TMK0500745	20050816	20120709	DAPHNE GREY	REDCATS USA, L.P.	N
TMK0500746	20050819	20051217	MOREY	WHAM-U, INC.	N
TMK0500747	20050830	20150109	CARTIER	CARTIER INTERNATIONAL B.V.	N
TMK0500748	20050830	20130502	LANGER	LANGER INTERNATIONAL B.V.	N
TMK0500749	20050831	20130502	LANGER	LANGER INTERNATIONAL B.V.	N
TMK0500750	20050831	20081110	MONBLANC	MONBLANC-STIMLO GMBH	N
TMK0500751	20050831	20100710	ORTOLES (STYLIZED)	BALTIMORE ORTOLES LIMITED	N
TMK0500752	20050831	20100228	ORTOLES (STYLIZED)	BALTIMORE ORTOLES LIMITED	N
TMK0500753	20050831	20091205	P	THE PHILLIES	N
TMK0500754	20050831	20100109	A STYLIZED	ATLANTA NATIONAL LEAGUE BASEBALL	N
TMK0500755	20050831	20150617	LONGHORNS	UNIVERSITY OF TEXAS SYSTEM	N
TMK0500756	20050830	20150720	THE UNIVERSITY OF TEXAS	UNIVERSITY OF TEXAS SYSTEM	N
SUBTOTAL RECORDATION TYPE					53
TOTAL RECORDATIONS ADDED THIS MONTH					65

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 license is canceled with prejudice.

<u>Name</u>	<u>License #</u>	<u>Issuing Port</u>
Pioneer International Customhouse Brokerage, Inc.	09327	San Francisco
Eric A. Guillermety-Perez	14529	San Juan

DATED: September 26, 2005

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

[Published in the Federal Register, October 3, 2005 (70 FR 57614)]

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 cancelled without prejudice.

<u>Name</u>	<u>License #</u>	<u>Issuing Port</u>
Action International, Inc.	12875	Tampa
Aries International Import Services	12704	New York

DATED: September 26, 2005

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

[Published in the Federal Register, October 3, 2005 (70 FR 57613)]

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 permits are cancelled without prejudice.

<u>Name</u>	<u>Permit #</u>	<u>Issuing Port</u>
Aries International Import Services	05-026	Washington, D.C.
Action International, Inc.	18-0139	Tampa
Michael A. Marks dba Straight Forward	11120-P	San Francisco
Panalpina, Inc.	18-03-554	Tampa
Lois B. Sproul	17-03-AWG	Atlanta

DATED: September 26, 2005

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

[Published in the Federal Register, October 3, 2005 (70 FR 57614)]

PROPOSED COLLECTION; COMMENT REQUEST

**Application for Extension of Bond
for Temporary Importation**

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Extension of Bond for Temporary Importation. 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 December 5, 2005, 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: (a) 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) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). 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: Application for Extension of Bond for Temporary Importation

OMB Number: 1651-0015

Form Number: CBP Form 3173

Abstract: Imported merchandise that is to remain in the Customs territory for one year or less without duty payment is entered as a temporary importation. The importer may apply for an extension of this period on CBP Form 3173.

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: 6,800

Estimated Time Per Respondent: 1 minute

Estimated Total Annual Burden Hours: 348

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

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

Importers of Merchandise Subject to Actual Use Provisions

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning Importer's of Merchandise Subject to Actual Use Provisions. 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 December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the 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 the Bureau of Customs and Border Protection, 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: (a) 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: Importers of Merchandise Subject to Actual Use Provisions

OMB Number: 1651-0032

Form Number: None

Abstract: The Importers of Merchandise Subject to Actual Use Provision is part of the regulation that provides that certain items may be admitted duty-free such as farming implements, seed, potatoes etc., providing the importer can prove these items were actually used as contemplated by law. The importer must maintain detailed records and furnish a statement of use.

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

Type of Review: Extension (without change)

Affected Public: Individuals, Businesses.

Estimated Number of Respondents: 12,000

Estimated Time Per Respondent: 65 minutes

Estimated Total Annual Burden Hours: 3,000

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

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

[Published in the Federal Register, October 6, 2005 (70 FR 58457)]

Bonded Warehouse Proprietor's Submission

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Bonded Warehouse Proprietor's 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 December 5, 2005, 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, Information Services

Group, 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: (a) 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) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). 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 the CBP is soliciting comments concerning the following information collection:

Title: Bonded Warehouse Proprietor's Submission.

OMB Number: 1651-0033

Form Number: Form 300

Abstract: CBP Form 300 is prepared by Bonded Warehouse Proprietor and submitted to CBP annually. The document reflects all bonded merchandise entered, released, and manipulated, and includes beginning and ending inventories.

Current Actions: There are no changes to this 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: 1,800

Estimated Time Per Respondent: 24 hours

Estimated Total Annual Burden Hours: 43,740

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

TRACEY DENNING,
Agency Clearance Officer,
Information Services Branch.

Declaration of Person Who Performed Repairs

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration of a Person Who Performed Repairs. 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 December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the 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 the Bureau of Customs and Border Protection, 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: (a) 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 Person Who Performed Repairs

OMB Number: 1651-0048

Form Number: None

Abstract: The Declaration of Person Who Performed Repairs is used by CBP to ensure duty-free status for entries covering articles repaired aboard. It must be filed by importers claiming duty-free status.

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: 20,472

Estimated Time Per Respondent: 30 minutes

Estimated Total Annual Burden Hours: 10,236

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

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

[Published in the Federal Register, October 6, 2005 (70 FR 58458)]

Harbor Maintenance Fee

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 (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Harbor Maintenance Fee. 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 December 5, 2005, 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: (a) 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 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: Harbor Maintenance Fee

OMB Number: 1651-0055

Form Number: CBP Forms 349 and 350

Abstract: This collection of information will be used to verify that the Harbor Maintenance Fee paid is accurate and current for each individual, importer, exporter, shipper, or cruise line.

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

Type of Review: Extension (without change)

Affected Public: Businesses, Institutions

Estimated Number of Respondents: 5,200

Estimated Time Per Respondent: 30 minutes

Estimated Total Annual Burden Hours: 2,816

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

TRACEY DENNING,
Agency Clearance Officer,
Information Services Branch.

[Published in the Federal Register, October 6, 2005 (70 FR 58458)]

Country of Origin Marking Requirements for Containers or Holders

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Country of Origin Marking Requirements for Containers or Holders. 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 December 5, 2005, 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: (a) 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) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). 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: Country of Origin Marking Requirements for Containers or Holders

OMB Number: 1651-0057

Form Number: None

Abstract: Containers or Holders imported into the United States destined for an ultimate purchaser must be marked with the English name of the country of origin at the time of importation into Customs territory.

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: 10,000

Estimated Time Per Respondent: 15 seconds

Estimated Total Annual Burden Hours: 41

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

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

[Published in the Federal Register, October 6, 2005 (70 FR 58459)]

Customs Modernization Act Recordkeeping Requirements

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Customs Modernization Act Recordkeeping Requirements. 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 December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the 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 the Bureau of Customs and Border Protection, 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 Re-

duction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) 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: Customs Modernization Act Recordkeeping Requirements

OMB Number: 1651-0076

Form Number: None

Abstract: This information and records keeping requirement is required to allow CBP to verify the accuracy of the claims made on the entry documents regarding the tariff status of imported merchandise, admissibility, classification/nomenclature, value and rate of duty applicable to the entered goods.

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: 6,070

Estimated Time Per Respondent: 957 hours

Estimated Total Annual Burden Hours: 5,812,010

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

TRACEY DENNING,
Agency Clearance Officer,
Information Services Branch.

[Published in the Federal Register, October 6, 2005 (70 FR 58453)]

Andean Trade Preferences

ACTION: Notice and request for comments.

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

an information collection requirement concerning Andean Trade Preferences. 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 December 5, 2005, 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 the Bureau of Customs and Border Protection, 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: (a) 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: Andean Trade Preferences

OMB Number: 1651-0091

Form Number: None

Abstract: This collection identifies the country of origin and related rules which apply for purposes of duty-free or reduced-duty treatment and specifies the documentary and other procedural requirements for preferential tariff treatment under the Andean Trade Preferences Act 19 U.S.C. 3201 through 3206.

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: 48,000
Estimated Time Per Respondent: 10 minutes
Estimated Total Annual Burden Hours: 7,968
Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

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

[Published in the Federal Register, October 6, 2005 (70 FR 58454)]

Application for Withdrawal of Bonded Stores For Fishing Vessels and Certification of Use

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Withdrawal of Bonded Stores For Fishing Vessels and Certification of Use. 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 December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the Bureau of Customs and Border Protection, Attn: Tracey Denning, 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: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical util-

ity; (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 Customs is soliciting comments concerning the following information collection:

Title: Application for Withdrawal of Bonded Stores For Fishing Vessels and Certification of Use

OMB Number: 1651-0092

Form Number: CBP Form 5125

Abstract: The CBP Form 5125 is used for the withdrawal and lading of bonded merchandise (especially alcoholic beverages) for use on board fishing vessels. The form also certifies the use: total consumption or partial consumption with secure storage for use on next voyage.

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

Type of Review: Extension

Affected Public: Businesses .

Estimated Number of Respondents: 500

Estimated Time Per Respondent: 5 minutes

Estimated Total Annual Burden Hours: 42

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

TRACEY DENNING,
Agency Clearance Officer;
Information Services Branch.

[Published in the Federal Register, October 6, 2005 (70 FR 58455)]

**Declaration of Owner of Merchandise Obtained
(other than) in Pursuance of a Purchase or Agreement to
Purchase and Declaration of Importer of Record When
Entry is Made by an Agent**

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration of Owner of Merchandise Obtained (other than) in Pursuance of a Purchase or Agreement to Purchase and Declaration of Importer of Record When Entry is Made by an Agent. 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 December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the Bureau of Customs and Border Protection, Attn: Tracey Denning, 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: (a) 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) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). 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 Owner of Merchandise Obtained (other than) in Pursuance of a Purchase or Agreement to Purchase and Declaration of Importer of Record When Entry is Made by an Agent.

OMB Number: 1651-0093

Form Number: CBP Forms-3347 and 3347A

Abstract: CBP Forms-3347 and 3347A allow an agent to submit, subsequent to making the entry, the declaration of the importer of record that is required by statute. These forms also permit a nominal importer of record to file the declaration of the actual owner and to be relieved of statutory liability for the payment of increased duties.

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

Type of Review: Extension

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 5,700

Estimated Time Per Respondent: 6 minutes

Estimated Total Annual Burden Hours: 570

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

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

[Published in the Federal Register, October 6, 2005 (70 FR 58455)]

**Declaration of a Person Abroad Who Receives and is
Returning Merchandise to the U.S.**

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration of a Person Abroad Who Receives and is Returning Merchandise to the U.S. 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 December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the Bureau of Customs and Border Protection, Attn: Tracey Denning, 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: (a) 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) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs. 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 the CBP is soliciting comments concerning the following information collection:

Title: Declaration of a Person Abroad Who Receives and is Returning Merchandise to the U.S.

OMB Number: 1651-0094

Form Number: None

Abstract: This declaration is used under conditions where articles are imported and then exported and then reimported free of duty due. The declaration is to insure CBP control over duty-free 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

Affected Public: Individuals, business or other for-profit institutions

Estimated Number of Respondents: 1500

Estimated Time Per Respondent: 10 minutes

Estimated Total Annual Burden Hours: 250

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

TRACEY DENNING,
Agency Clearance Officer,
Information Services Branch.

Textile and Textile Products

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Textile and Textile Products. 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 December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the Bureau of Customs and Border Protection Attn: Tracey Denning, 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: (a) 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: Textile and Textile Products

OMB Number: 1651-0095

Form Number: None

Abstract: Information is needed for CBP to be able to identify the Country of Origin of Textiles. The requirement prevents circumvention of bilateral agreements and ensures the proper assessment of

duties. The declaration will be executed by the foreign manufacturer, exporter, or U.S. importer to be filed with the entry.

Current Actions: There are no changes to the information collection.

Type of Review: Extension

Affected Public: Businesses

Estimated Number of Respondents: 45,810

Estimated Time Per Respondent: 7 minutes

Estimated Total Annual Burden Hours: 133,582

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

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

[Published in the Federal Register, October 6, 2005 (70 FR 58456)]

Transfer of Cargo to a Container Station

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Transfer of Cargo to a Container Station. 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 December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the Bureau of Customs and Border Protection, Attn: Tracey Denning, 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 Re-

duction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) 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) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). 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: Transfer of Cargo to a Container Station

OMB Number: 1651-0096

Form Number: None

Abstract: The container station operator may file an application for transfer of a container to a container station which is moved from the place of unloading, or from a bonded carrier after transportation in-bond before filing of the entry for the purpose of breaking bulk and redelivery.

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

Type of Review: Extension

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 21,660

Estimated Time Per Respondent: 7 minutes

Estimated Total Annual Burden Hours: 2,513

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

TRACEY DENNING,
Agency Clearance Officer,
Information Services Branch.

[Published in the Federal Register, October 6, 2005 (70 FR 58452)]

NAFTA Regulations and Certificate of Origin

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

ACTION: Notice and request for comments.

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

DATES: Written comments should be received on or before December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the Bureau of Customs and Border Protection, Tracey Denning, 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: (a) 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) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). 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 the CBP is soliciting comments concerning the following information collection:

Title: NAFTA Regulations and Certificate of Origin

OMB Number: 1651-0098

Form Number: CBP Forms 434 and 446

Abstract: The objectives of NAFTA are to eliminate barriers to trade in goods and services between the United States, Mexico, and Canada; facilitate conditions of fair competition within the free trade area; liberalize significantly conditions for investments within the free trade area; establish effective procedures for the joint administration of the NAFTA; and the resolution of disputes.

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

Type of Review: Extension

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 120,050

Estimated Time Per Respondent: 15 minutes

Estimated Total Annual Burden Hours: 30,037

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

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

[Published in the Federal Register, October 6, 2005 (70 FR 58451)]

Bond Procedures for Articles Subject to Exclusion Orders Issued by the U.S. International Trade Commission

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Bond Procedures for Articles Subject to Exclusion Orders Issued by the U.S. International Trade Commission. 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 December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the Bureau of Customs and Border Protection Service, Attn: Tracey Denning, 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 Service, 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 Re-

duction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) 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: Bond Procedures for Articles Subject to Exclusion Orders Issued by the U.S. International Trade Commission

OMB Number: 1651-0099

Form Number: None

Abstract: This collection is required to ensure compliance with section 337 of the Tariff Act of 1930, as amended by section 321 of the Uruguay Round Agreements regarding bond procedures for entry of articles subject to exclusion orders issued by the U.S. International Trade Commission.

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

Type of Review: Extension

Affected Public: Businesses

Estimated Number of Respondents: 100

Estimated Time Per Respondent: 30 minutes

Estimated Total Annual Burden Hours: 50

Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

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

[Published in the Federal Register, October 6, 2005 (70 FR 58453)]

Guam Visa Waiver Information (I-736)

ACTION: Notice and request for comments.

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

an information collection requirement concerning the Guam Visa Waiver Information. 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 December 5, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the Bureau of Customs and Border Protection, Attn: Tracey Denning, 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: (a) 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 Customs is soliciting comments concerning the following information collection:

Title: Guam Visa Waiver Information

OMB Number: 1651-0109

Form Number: CBP Form I-736

Abstract: The CBP Form I-736 is used to track an alien's application for waiver of the nonimmigrant visa requirement for entry into Guam.

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

Type of Review: Extension

Affected Public: Individuals

Estimated Number of Respondents: 170,000
Estimated Time Per Respondent: 5 minutes
Estimated Total Annual Burden Hours: 14,110
Estimated Total Annualized Cost on the Public: N/A

Dated: September 28, 2005

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

[Published in the Federal Register, October 6, 2005 (70 FR 58452)]

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

Washington, DC, October 5, 2005

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.

Myles B. Harmon for MICHAEL T. SCHMITZ,
*Assistant Commissioner,
Office of Regulations and Rulings.*

19 CFR PART 177

**PROPOSED REVOCATION OF RULING LETTERS AND
TREATMENT RELATING TO TARIFF CLASSIFICATION OF
LAMINATED STEEL SHEET**

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

ACTION: Notice of proposed revocation of ruling letters and treatment relating to tariff classification of laminated steel sheet.

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 intends to revoke four (4) rulings relating to the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of laminated steel sheet, and to revoke any treatment CBP has previously accorded to substantially identical transactions. The merchandise is steel sheet laminated on at least one side with polyethylene or polyvinyl chloride. CBP invites comments on the correctness of the proposed action.

DATE: Comments must be received on or before November 18, 2005.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations & 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., dur-

ing regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Commercial Rulings Division (202) 572-8779.

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), 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 based on the premise 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 rights and responsibilities 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, 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 declare value on imported merchandise, and to provide other necessary information to enable CBP to properly assess duties, collect accurate statistics and determine whether any other 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 four (4) rulings relating to the tariff classification of steel sheet laminated with plastic. Although in this notice CBP is specifically referring to four (4) rulings, NY 893462, NY J86283, NY J85044 and NY I80611, 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 ones identified. No further rulings have been identified. Any party who has received an interpretative 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, CBP intends to revoke any treatment it previously accorded to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An import-

er'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 the effective date of the final decision on this notice.

In NY 893462, dated January 31, 1994, PVC laminated steel sheet was held to be classifiable as other articles of iron or steel, in subheading 7326.90.90 (now 90.85), HTSUS. In NY J86283, dated July 16, 2003, a laminate sandwich consisting of alloy steel ribbon laminated with polyethylene terephthalate (PET) was held to be classifiable in subheading 7326.90.85, HTSUS. In NY J85044, dated June 26, 2003, polyester/ polyethylene laminated steel sheet was held to be classifiable in subheading 7326.90.10 or in subheading 7326.90.85, as appropriate. In NY I80611, dated April 19, 2002, steel sheet to which a pre-existing vinyl sheet is laminated was held to be classifiable in subheading 7326.90.85, HTSUS. These rulings were based on the belief that laminating with plastics advanced the steel beyond a product of Chapter 72. These rulings are set forth as "Attachment A," "Attachment B," "Attachment C," and "Attachment D" to this document, respectively.

It is now CBP's position that this merchandise is classifiable in provisions of Chapter 72, as flat-rolled products of iron or nonalloy steel or of other alloy steel, as appropriate. Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY 893462, NY J86283, NY J85044 and NY I80611, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis in HQ 967681, HQ 967682, HQ 967683 and HQ 967684 which are set forth as "Attachment E," "Attachment F," "Attachment G," and "Attachment H" to this document, respectively. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment it previously accorded to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

DATED: September 28, 2005

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

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

NY 893462
January 31, 1994
CLA-2-73:S:N:N1:117 893462
CATEGORY: Classification
TARIFF NO.: 7326.90.90

MR. A.J. SPATARELLA
KANEMATSU USA INC.
114 West 47th Street-23rd Floor
New York, NY 10036

RE: The tariff classification of PVC laminated steel sheet from Taiwan.

DEAR MR. SPATARELLA:

In your letter dated December 23, 1993, you requested a tariff classification ruling.

The product you plan to import is PVC laminated steel sheet. Laboratory analysis indicated that the representative sample you submitted is composed of unalloyed steel laminated on one side with polyvinyl chloride (PVC) and coated or plated on the reverse side with zinc metal.

In your letter, you suggested that the product be classified under 7212.40.50 as flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, clad, plated, or coated, painted, varnished or coated with plastics, other. Aside from the difference in dimensional requirements, heading 7212 covers the same kind of products described in heading 7210. "For the purpose of this heading, the expression "clad, plated, or coated" applies to the products which were subjected to one of the treatments described in Part (C)(2), Items (d)(iv), (d)(v) and (e) of the General Explanatory Note to this Chapter." Lamination is defined as the bonding together of two pre-existing sheets, and is not mentioned in any Legal or Explanatory Note as a process to which flat-rolled products may be subjected.

The applicable subheading for the PVC laminated steel sheet will be 7326.90.90, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of iron or steel, other, other. The rate of duty will be 5.75 percent ad valorem.

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

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,
*Area Director,
New York Seaport.*

[ATTACHMENT B]

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

NY J86283

July 16, 2003

CLA-2-73:RR:NC:1:117 J86283

CATEGORY: Classification

TARIFF NO.: 7326.90.8587

MR. TIMOTHY SHEPHERD
NISSIN CUSTOMS SERVICE, INC.
101 Mark Street, Suite G
Wood Dale, Illinois 60191

RE: The tariff classification of "Finemet" flexible magnetic shielding sheet from Japan.

DEAR MR. SHEPHERD:

In your letter dated May 29, 2003 on behalf of Hitachi Metals America, you requested a tariff classification ruling. Representative samples of the products to be imported were submitted with your request.

The product to be imported, known as "Finemet" (MS-F), is a thin, flexible magnetic shielding material made of a laminate "sandwich" consisting of 5 alternating layers: PET (polyethylene terephthalate) film-adhesive-"Finemet" ribbon-adhesive-PET film. The "Finemet" ribbon is alloy steel and can be produced in one of two forms, either as a powder or, in this case, in ribbon form. The ribbon form of "Finemet" is produced by the "single roll method" or the "planer flow method". The molten steel is held in a crucible positioned just above a rotating chill roll. The molten steel is then ejected from the nozzle onto the chill roll's surface, which is rotating at a high speed. The molten steel is rapidly quenched which produces an amorphous or non-crystalline form of metal. The ribbon thus produced is then heat treated to reduce the amorphous phase of the metal to a nano-crystalline form. The "Finemet" ribbon, known as "Finemet (MS-F)", measures approximately 0.02 mm in thickness and can be produced in various widths. The alloy steel "Finemet" ribbon accounts for approximately 60% of the weight of this composite layered sheet which is designed to eliminate broadband noise by virtue of its magnetic shielding properties.

The applicable subheading for the "Finemet (MS-F) composite sheet will be 7326.90.8587, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of iron or steel, other, other, other, other, other. The rate of duty will be 2.9 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Paula Ilardi at 646-733-3020.

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

[ATTACHMENT C]

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

NY J85044

June 26, 2003

CLA-2-73:RR:NC:1:117 J85044

CATEGORY: Classification

TARIFF NO.: 7326.90.1000; 7326.90.8587

MR. JAYNI LEE
HYOSUNG (AMERICA), INC.
910 Columbia Street
Brea, CA 92821

RE: The tariff classification of laminated steel sheet from Japan.

DEAR MR. LEE:

In your letter dated May 23, 2003, you requested a tariff classification ruling.

The products to be imported are described as PET/PP coated steel (Polyester/Polyethylene Laminated Steel). Pre-existing PET/PP film is laminated on both sides of flat-rolled steel substrates of tinplate, tin free steel or nickel-plated steel. The laminated flat-rolled steel sheet ranges from 0.15 mm to 1.0 mm in thickness and from 700 mm to 950 mm in width and will be imported in coil form. These sheets will be used in the manufacture of aerosol cans, paint cans and food cans.

The applicable subheading for the laminated tinplate sheet will be 7326.90.1000, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of iron or steel, other, of tinplate. The rate of duty will be free.

The applicable subheading for the laminated tin free steel and nickel-plated steel sheet will be 7326.90.8587, HTS, which provides for other articles of iron or steel, other, other, other, other, other. The rate of duty will be 2.9 percent ad valorem.

You ask whether these products are subject to additional section 201 tariffs and/or antidumping or countervailing duties.

The products described in this ruling request that are classified under HTS heading 7326 are not subject to additional section 201 tariffs.

With regard to antidumping or countervailing duties, a list of AD/CVD proceedings at the Departments of Commerce (DOC) and their product coverage can be obtained from the DOC website at: <http://ia.ita.doc.gov>, or you may write to them at the U.S. Department of Commerce, International Trade Administration, Office of Antidumping Compliance, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Written decisions regarding the scope of AD/CVD orders are issued by the Import Administration in the Department of Commerce and are separate from tariff classification and origin rulings issued by Customs.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is im-

ported. If you have any questions regarding the ruling, contact National Import Specialist Paula Ilardi at 646-733-3020.

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

[ATTACHMENT D]

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

NY I80611
April 19, 2002
CLA-2-73:RR:NC:1:117 I80611
CATEGORY: Classification
TARIFF NO.: 7326.90.8586

MS. DIANE CACHIA
ACTION CUSTOMS EXPEDITERS, INC.
115 Christopher Columbus Drive
Jersey City, NJ 07302

RE: The tariff classification of laminated steel sheet from Korea.

DEAR MS. CACHIA:

In your letter dated March 27, 2002 on behalf of LG Chemical America Inc., you requested a tariff classification ruling. A representative sample of the product to be imported was submitted with your request.

The products to be imported are described as high gloss laminated steel sheets. The steel sheets will range from 19.6 inches to 28.6 inches and from 36 inches to 39 inches in width. One side of the steel substrate is painted and the other side is coated with an adhesive layer to which a pre-existing vinyl sheet will be laminated. The vinyl sheet, a sample of which was submitted, gives the steel the look of stainless steel. These sheets will be used in the manufacture of refrigerators and dishwashers.

The applicable subheading for the vinyl laminated steel sheet will be 7326.90.8586, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of iron or steel, other, other, other, other, other. The rate of duty will be 2.9 percent ad valorem.

You ask whether this product is covered by Presidential Proclamation 7259 and subject to additional tariffs. The product you describe in this ruling request that is classified under HTS subheading 7326.90.8586 is not covered by Presidential Proclamation 7259 and is not subject to additional tariffs under this Proclamation.

You have also asked whether this product is subject to antidumping or countervailing duties. A list of AD/CVD proceedings at the Department of Commerce (DOC) and their product coverage can be obtained from the DOC website at: <http://ia.ita.doc.gov>, or you may write to them at the U.S. Department of Commerce, International Trade Administration, Office of Antidumping Compliance, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Written decisions regarding the scope of AD/CVD orders are is-

sued by the Import Administration in the Department of Commerce and are separate from tariff classification and origin rulings issued by Customs.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Paula Ilardi at 646-733-3020.

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



[ATTACHMENT E]

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

HQ 967681
CLA-2 RR:CR:GC 967681 JAS
CATEGORY: Classification
TARIFF NO.: 7210, 7212

MR. A. J. SPATARELLA
KANEMATSU USA INC.
114 West 47th Street, 23rd Floor
New York, NY 10036

RE: PVC Laminated Steel Sheet; NY 893462 Revoked

DEAR MR. SPATARELLA:

In NY 893462, which the then-Area Director of Customs, New York Seaport, issued to you on January 31, 1994, certain pvc laminated steel sheet was found to be classifiable as other articles of iron or steel, in subheading 7326.90.90 (now 7326.90.85), Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed this classification and determined that it is incorrect.

FACTS:

The merchandise was described in NY 893462 as unalloyed steel laminated on one side with polyvinyl chloride (pvc) and coated or plated on the reverse side with zinc metal. There is no further description of this merchandise nor any indication of its intended use.

The HTSUS provisions under consideration are as follows:

7210	Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, clad, plated or coated:
7210.30.00	Electrolytically plated or coated with zinc
	Otherwise plated or coated with zinc:
7210.49.00	Other

* * * *

7212	Flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, clad, plated or coated:
7212.20.00	Electrolytically plated or coated with zinc
7212.30	Otherwise plated or coated with zinc:
	Of a width of less than 300 mm:
7212.30.10	Of a thickness exceeding 0.25 mm or more
7212.30.30	Other
7212.30.50	Other

* * * *

7326	Other articles of iron or steel
7326.90	Other:
	Other:
	Other:
7326.90.90 (now 90.85)	Other

ISSUE:

Whether the merchandise, processed as described, is a product of Chapter 72.

LAW AND ANALYSIS:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

Chapter 72, Note 1(k), HTSUS, defines Flat-rolled products, in part, in terms of thickness and width requirements, and includes those products with patterns in relief derived directly from rolling (for example, grooves, ribs, etc.) and those which have been perforated, corrugated or polished, provided that they do not thereby assume the character of articles or products of other headings. The pvc laminated steel sheet at issue meets these descriptions.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. Though not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS. U.S. Customs and Border Protection believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN 73.26 indicates the heading covers all iron or steel articles other than those included in the preceding headings of Chapter 73, or covered by Note 1 to Section XV or included in Chapters 82 or 83 or more specifically covered elsewhere in the Nomenclature. In addition, General Explanatory Note

(IV)(C) to Chapter 72 indicates that the finished products of that chapter may be subjected to further finishing treatments or converted into other articles. Included are surface treatments or other operations to improve the properties or appearance of the metal, protect it against rusting and corrosion, etc. Except as otherwise provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified. Among these treatments or operations are coating with metal, at General Explanatory Note (IV)(C)(2)(d)(iv), and lamination, at General Explanatory Note(IV)(C)(2)(g).

Uniting a pvc layer with a nonalloy steel sheet by an epoxy adhesive or otherwise constitutes a lamination. Typical applications for vinyl laminated steel is in the manufacturing sector, i.e., to give the high gloss look of stainless steel. Zinc is a commonly used coating that imparts corrosion resistance to steel. NY 893462 noted that lamination was not mentioned in any Legal or Explanatory Note as a process to which flat-rolled products may be subjected. Further, NY 893462 does not state the intended end use of the pvc laminated steel sheet at issue. Amendments to the ENs do not change the scope of the HTSUS headings but are a clarification of the current text. Notwithstanding the fact that General Explanatory Note (IV)(C) was not amended to add subparagraph (C)(2)(g) until 1998, it is apparent that individually, or in combination, these processes are designed to improve the properties or appearance of metal and to protect it against rust or corrosion. Therefore, the subject merchandise is provided for both in heading 7210 and in heading 7212. By its terms, heading 7326 is eliminated from consideration.

HOLDING:

Under the authority of GRI 1, the pvc laminated nonalloy zinc-coated steel sheet is provided for in heading 7210 or in heading 7212, HTSUS, depending on width. It is classifiable in the appropriate subheading based on thickness and manner of coating or plating. The column 1 rate of duty under all of these provisions is FREE.

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 World Wide Web at www.usitc.gov/tata/hts.

EFFECT ON OTHER RULINGS:

NY 893462, dated January 31, 1994, is revoked.

MYLES B. HARMON,

Director,

Commercial and Trade Facilitation Division.

[ATTACHMENT F]

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

HQ 967682
CLA-2 RR:CR:GC 967682 JAS
CATEGORY: Classification
TARIFF NO.: 7226.99.0000

MR. TIMOTHY SHEPHERD
NISSIN CUSTOMS SERVICE, INC.
101 Mark Street, Suite G
Wood Dale, ILL 60191

RE: "Finemet" Flexible Magnetic Shielding Sheet; NY J86283 Revoked

DEAR MR. SHEPHERD:

In NY J86283, which the Director, National Commodity Specialist Division, Bureau of Customs and Border Protection (CBP), New York, issued to you on behalf of Hitachi Metals America on July 16, 2003, certain alloy steel ribbon to which is laminated polyethyleneterephthalate (PET) was found to be classifiable as other articles of iron or steel, in subheading 7326.90.8587, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). We have reviewed this classification and determined that it is incorrect.

FACTS:

The merchandise, known as "Finemet" (MS-F), was described in NY J86283 as a thin, flexible magnetic shielding material made of a laminate sandwich consisting of 5 alternating layers: PET (polyethyleneterephthalate) film-adhesive-"Finemet" ribbon-adhesive-PET film. Alloy steel, in ribbon form, is first produced by ejecting molten steel from a crucible onto a rotating chill roll. The molten steel is rapidly quenched, then heat treated, after which adhesive is applied to both sides and PET is applied by a laminating process. Product literature submitted with the ruling request indicates the resulting "Finemet" (MS-F) measures approximately 610 mm x 460 mm x 0.15 mm. This product is designed to eliminate broadband noise in such electrical devices as mobile phones, digital cameras and personal computers by virtue of its magnetic shielding properties.

The HTSUS provisions under consideration are as follows:

- 7226** Flat-rolled products of other alloy steel, of a width of less than 600 mm:
Other:
- 7226.99.00** Other
* * * *
- 7327** Other articles of iron or steel
- 7327.90** Other:
Other:
Other:
- 7326.90.85** Other

ISSUE:

Whether the merchandise, processed as described, is a product of Chapter 72.

LAW AND ANALYSIS:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

Chapter 72, Note 1(k), HTSUS, defines Flat-rolled products, in part, in terms of thickness and width requirements, and includes those products with patterns in relief derived directly from rolling (for example, grooves, ribs, etc.) and those which have been perforated, corrugated or polished, provided that they do not thereby assume the character of articles or products of other headings. The “Finemet” (MS-F) meets these descriptions.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. Though not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS. CBP believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN 73.26 indicates the heading covers all iron or steel articles other than those included in the preceding headings of Chapter 73, or covered by Note 1 to Section XV or included in Chapters 82 or 83 or more specifically covered elsewhere in the Nomenclature. In addition, General Explanatory Note (IV)(C) to Chapter 72 indicates that the finished products of that chapter may be subjected to further finishing treatments or converted into other articles. Included are surface treatments or other operations to improve the properties or appearance of the metal, protect it against rusting and corrosion, etc. Except as otherwise provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified. Among these treatments or operations, at General Explanatory Note (IV)(C)(2)(g), is lamination.

The uniting of five alternating layers of PET film and alloy steel ribbon utilizing an adhesive constitutes a lamination. It is apparent that this laminating process is designed to improve the properties of the alloy steel ribbon by better suiting it for use in shielding the magnetic field created by high voltage distribution lines or power distribution equipment, thereby attenuating broadband noise. Therefore, the subject merchandise is provided for as a flat-rolled product of other alloy steel, of heading 7226. By its terms, heading 7326 is eliminated from consideration.

HOLDING:

Under the authority of GRI 1, “Finemet” (MS-F) is provided for in heading 7226. It is classifiable in subheading 7226.99.0000, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). The column 1 rate of duty under this provision is FREE.

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 World Wide Web at www.usitc.gov/tata/hts.

EFFECT ON OTHER RULINGS:

NY J86283, dated July 16, 2003, is revoked.

MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

[ATTACHMENT G]

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

HQ 967683
CLA-2 RR:CR:GC 967683 JAS
CATEGORY: Classification
TARIFF NO.: 7210.11.0000, 7210.12.0000,
7210.50.0000, 7210.90.6000, 7210.90.9000

MR. JAYNI LEE
HYOSUNG (AMERICA), INC.
910 Columbia Street
Brea, CA 92821

RE: Polyester/Polyethylene Laminated Steel Sheet; NY J85044 Revoked

DEAR MR. LEE:

In NY J85044, which the Director, National Commodity Specialist Division, Bureau of Customs and Border Protection (CBP), New York, issued to you on June 26, 2003, certain carbon steel sheet to which is laminated a polyester/polyethylene film was found to be classifiable as other articles of iron or steel, of tinsplate, in subheading 7326.90.1000, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), or as other articles of iron or steel, other, in subheading 7326.90.8587, HTSUSA. We have reviewed these classifications and determined that they are incorrect.

FACTS:

The merchandise was described in NY J85044 as pre-existing PET/PP film laminated on both sides of a flat-rolled steel substrate of tinsplate, tin-free steel or nickel-plated steel. The steel substrate, imported in coils, ranges from 0.15 mm to 1.0 mm in thickness and from 700 mm to 950 mm in width. The product is typically used in the manufacture of aerosol cans, paint cans and food cans.

The HTSUS provisions under consideration are as follows:

- 7210** Flat-rolled products of iron or nonalloy, of a width of 600 mm or more, clad, plated or coated:
- Plated or coated with tin:
- 7210.11.00** Of a thickness of 0.5 mm or more
- 7210.12.00** Of a thickness of less than 0.5 mm
- 7210.50.00** Plated or coated with chromium oxides or with chromium and chromium oxides

7210.90 Other:
 Other:
7210.90.60 Electrolytically coated or plated with base metal
7210.90.90 Other

* * * *

7326 Other articles of iron or steel
7326.90 Other:
7326.90.10 Of tinfoil
 Other:
 Other:
7326.90.85 Other

ISSUE:

Whether the merchandise, processed as described, is a product of Chapter 72.

LAW AND ANALYSIS:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

Chapter 72, Note 1(k), HTSUS, defines Flat-rolled products, in part, in terms of thickness and width requirements, and includes those products with patterns in relief derived directly from rolling (for example, grooves, ribs, etc.) and those which have been perforated, corrugated or polished, provided that they do not thereby assume the character of articles or products of other headings. The “Finemet” (MS-F) meets these descriptions.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. Though not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS. CBP believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Your ruling request, dated May 23, 2003, contained the following product description “PET/PP coated Steel (Polyester/Polyethylene Laminated Steel)” with the further indication that the PET/PP film is laminated to the steel substrate. We note that “PET” is an acronym designating polyethylene-terephthalate, which is a polyester, while “PP” normally designates polypropylene.

EN 73.26 indicates the heading covers all iron or steel articles other than those included in the preceding headings of Chapter 73, or covered by Note 1 to Section XV or included in Chapters 82 or 83 or more specifically covered elsewhere in the Nomenclature. In addition, General Explanatory Note (IV)(C) to Chapter 72 indicates that the finished products of that chapter may be subjected to further finishing treatments or converted into other articles. Included are surface treatments or other operations to improve the

properties or appearance of the metal, protect it against rusting and corrosion, etc. Except as otherwise provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified. Among these treatments or operations, at General Explanatory Note (IV)(C)(2)(g), is lamination.

Layers of PET/PP applied to both sides of flat-rolled steel substrates of tinplate, tin-free steel and nickel-plated steel utilizing adhesives constitutes a lamination. It is apparent that this laminating process is designed to improve the properties of the alloy steel substrate by better suiting it for use in food cans and personal hygiene applications such as shaving and deodorant cans. Therefore, the subject merchandise is provided for as a flat-rolled product of nonalloy steel, of heading 7210. By its terms, heading 7326 is eliminated from consideration.

HOLDING:

Under the authority of GRI 1, the PET/PP laminated steel sheet is provided for in heading 7210. The tinplate steel product is classifiable in subheading 7210.11.0000 or in subheading 7210.12.0000, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), depending on thickness. The tin-free steel product is classifiable in subheading 7210.50.0000, HTSUSA, and the nickel-plated steel product is classifiable in subheading 7210.90.6000 or subheading 7210.90.9000, HTSUSA, as appropriate. The column 1 rate of duty under these provisions is FREE.

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 World Wide Web at www.usitc.gov/tata/hts.

As you may know, Presidential Proclamation 7741, dated December 4, 2003, effectively terminated the so-called 201 steel safeguard program under which additional duties on merchandise classified in the provisions listed above might have been imposed. Also, you should direct inquiries concerning possible antidumping and/or countervailing duties on this merchandise as instructed in NY J85044.

EFFECT ON OTHER RULINGS:

NY J85044, dated June 26, 2003, is revoked.

MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

[ATTACHMENT H]

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

HQ 967684
CLA-2 RR:CR:GC 967684 JAS
CATEGORY: Classification
TARIFF NO.: 7210.70.3000, 7212.40.5000

MS. DIANE CACHIA
ACTION CUSTOMS EXPEDITERS, INC.
115 Christopher Columbus Drive
Jersey City, NJ 07302

RE: Vinyl Laminated Steel Sheet; NY I80611 Revoked

DEAR MS. CACHIA:

In NY I80611, which the Director, National Commodity Specialist Division, Bureau of Customs and Border Protection (CBP), New York, issued to you on April 19, 2002, on behalf of LG Chemical America Inc., high gloss laminated steel sheet was found to be classifiable as other articles of iron or steel, in subheading 7326.90.8586, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). We have reviewed this classification and determined that it is incorrect.

FACTS:

The merchandise, described in NY I80611 as high gloss laminated steel sheet, is cut-to-length and ranges from 19.6 inches to 28.6 inches and from 36 inches to 39 inches in width. One side of the steel substrate is painted and the other side is coated with an adhesive layer to which a pre-existing vinyl sheet will be laminated. The vinyl sheet gives the steel the look of stainless steel. These sheets, of nonalloy steel, will be used in the manufacture of refrigerators and dishwashers.

The HTSUS provisions under consideration are as follows:

- 7210** Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, clad, plated or coated:
- 7210.70** Painted, varnished or coated with plastics:
- 7210.70.30** Not coated or plated with metal and not clad
* * * *
- 7212** Flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, clad, plated or coated:
- 7212.40** Painted, varnished or coated with plastics:
- 7212.40.50** Other
* * * * *
- 7326** Other articles of iron or steel
- 7326.90** Other:
Other:

Other:

7326.90.85 Other

ISSUE:

Whether the merchandise, processed as described, is a product of Chapter 72.

LAW AND ANALYSIS:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

Chapter 72, Note 1(k), HTSUS, defines Flat-rolled products, in part, in terms of thickness and width requirements, and includes those products with patterns in relief derived directly from rolling (for example, grooves, ribs, etc.) and those which have been perforated, corrugated or polished, provided that they do not thereby assume the character of articles or products of other headings. The high gloss laminated steel sheet meets these descriptions.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. Though not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS. CBP believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN 73.26 indicates the heading covers all iron or steel articles other than those included in the preceding headings of Chapter 73, or covered by Note 1 to Section XV or included in Chapters 82 or 83 or more specifically covered elsewhere in the Nomenclature. In addition, General Explanatory Note (IV)(C) to Chapter 72 indicates that the finished products of that chapter may be subjected to further finishing treatments or converted into other articles. Included are surface treatments or other operations to improve the properties or appearance of the metal, protect it against rusting and corrosion, etc. Except as otherwise provided in the text of certain headings, such treatments do not affect the heading in which the goods are classified. Among these treatments or operations are painting, at General Explanatory Note (IV)(C)(2)(d)(v), and lamination, at General Explanatory Note (IV)(C)(2)(g).

Uniting a pre-existing vinyl sheet with a painted other alloy steel sheet by an adhesive constitutes a lamination. It is apparent that this process, which you state gives the steel the look of stainless steel, is designed to improve the properties or appearance of the metal. The vinyl laminated steel sheet is provided for in heading 7210 or in heading 7212, depending on width. By its terms, heading 7326 is eliminated from consideration.

HOLDING:

Under the authority of GRI 1, the high gloss laminated steel sheets are provided for in headings 7210 or 7212, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). They are classifiable in subheading 7210.70.3000 or in subheading 7212.40.5000, HTSUSA, as appropriate. The column 1 rate of duty under these provisions is FREE.

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 World Wide Web at www.usitc.gov/tata/hts.

As you may know, Presidential Proclamation 7741, dated December 4, 2003, effectively terminated the so-called 201 steel safeguard program under which additional duties on merchandise classified in the provisions listed above might have been imposed. Also, you should direct inquiries concerning possible antidumping and/or countervailing duties on this merchandise as instructed in NY I80611.

EFFECT ON OTHER RULINGS:

NY I80611, dated April 19, 2002, is revoked.

MYLES B. HARMON,

Director;

Commercial and Trade Facilitation Division.



**REVOCATION OF TWO RULING LETTERS
AND TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CERTAIN
THREE-LAYER FABRIC AND GARMENTS WITH
ACTIVATED CARBON IN ONE LAYER**

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

ACTION: Notice of revocation of two tariff classification ruling letters and revocation of treatment relating to the classification of certain three-layer fabric and garments with activated carbon in one layer.

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 U.S. Customs and Border Protection (CBP) is revoking two ruling letters relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of certain three-layer fabric and garments with activated carbon in one layer. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice proposing these actions and inviting comments on their correctness was published in the *Customs Bulletin*, Volume 39, Number 35, on August 24, 2005. No comments were received in response to this notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 18, 2005.

FOR FURTHER INFORMATION CONTACT: Brian Barulich, Tariff Classification and Marking Branch, at (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, notice proposing to revoke New York Ruling Letter (NY) F83890 and NY G86317 was published in the *Customs Bulletin*, Volume 39, Number 35, on August 24, 2005. No comments were received in response to this notice. As stated in the proposed notice, the revocation will cover 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. 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 F83890, CBP ruled that “a laminated fabric consisting of an outer polyester knit fabric and an inner non-woven fabric impregnated with carbon, for use in manufacturing scent eliminating clothes” was classified in subheading 6815.10.0000, HTSUSA, which provides for: “Articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included: Nonelectrical articles of graphite or other carbon.” In NY G86317, CBP ruled that a “pullover top and stretch waistband pants” made of the fabric that was the subject of NY F83890 was also classified in subheading 6815.10.0000, HTSUSA.

Based on our review of these two rulings, new samples of the fabric and garments that were subject of those rulings, and the scope of heading 6815 and Section XI, HTSUSA, we now believe that the fabric and garments are classified in Section XI, HTSUSA, as textile fabric and articles of apparel, respectively.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY F83890 and NY G86317 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 analyses set forth in Headquarters Ruling Letter (HQ) 967321 and HQ 967320, which are set forth as attachments to this notice. 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 its publication in the *Customs Bulletin*.

DATED: October 5, 2005

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

HQ 967320
October 5, 2005
CLA-2:RR:CR:TE: 967320 BtB
CATEGORY: Classification
TARIFF NO.: 6105.20.2010, 6103.43.1520

DAVID A. RIGGLE, ESQ.
RIGGLE AND CRAVEN
8430 West Bryn Mawr Avenue
Suite 525
Chicago, IL 60631

RE: Revocation of NY G86317; certain ScentBlocker® Underguard™ three-layer garments with activated-carbon particles embedded in one layer

DEAR MR. RIGGLE:

This is in reconsideration of New York Ruling Letter (NY) G86317, dated January 25, 2001, issued to the Customs broker for Robinson Laboratories Inc. ("Robinson") by the U.S. Customs Service, now the Bureau of Customs and Border Protection (hereinafter "CBP"), concerning the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of certain ScentBlocker® garments made in China. As you now represent Robinson in this matter, this letter is addressed to you.

We have reviewed NY G86317 and have determined that the classification of the garments provided is incorrect. This ruling sets forth the correct classification of the garments. Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY G86317 was published in the *Customs Bulletin*, Volume 39, Number 35, on August 24, 2005. CBP received no comments during the notice and comment period that closed on August 23, 2005.

FACTS:

On January 5, 2001, Robinson's Customs broker requested a tariff classification ruling on the ScentBlocker® garments that are the subject of NY G86317. In NY G86317, these garments are described as "activated carbon lined clothing consisting of a pullover top and stretch waistband pants." The original samples of the garments and any accompanying literature were destroyed on September 11, 2001, in our former 6 World Trade Center office in New York City.

Notice of Proposed Revocation of NY G86317 was originally published in the *Customs Bulletin*, Volume 38, Number 21, on May 19, 2004. As the original samples and literature were destroyed, the proposed ruling by CBP to revoke NY G86317 (Headquarters Ruling (HQ) 966422) was drafted using the limited available information about the garments. During the Notice and Comment Period of Proposed Revocation, you contacted and informed us that several of our statements in HQ 966422 regarding the construction of the ScentBlocker® garments that are the subject of NY G86317 were not accurate. On Robinson's behalf, you provided new samples and literature to

this office on July 20, 2004, along with arguments against revocation of NY G86317. A Withdrawal of Proposed Revocation of NY G86317 was published in the Customs Bulletin, Volume 38, Number 34, on August 18, 2004. We met with you on February 3, 2005 to discuss your arguments and you provided CBP with additional information and arguments against revocation on February 21, 2005.

The new samples are identified as the ScentBlocker® Underguard™ Top (“top”) and ScentBlocker® Underguard™ Bottom (“bottom”). While the models in NY G86317 are not identified by model name, you represented that these new samples are the current versions of the garments classified in NY G86317. Laboratory analysis of this fabric from the samples showed that the garments are composed of three layers, not lined as stated in NY G86317. Their outer layer, printed in a camouflage pattern, is made of a weft knit interlock construction and is composed wholly of polyester. The middle layer is composed of activated carbon particles embedded in a nonwoven polyester construction. The inner layer has a weft knit construction and is composed wholly of polyester. The three layers are held together with adhesive material that is not visible in the cross section. The fabric has the following composition by weight of the entire fabric: top printed layer: 50.9%, middle nonwoven layer: 15.4%, inner layer: 21.8%, activated carbon and binder: 11.9%. The top has a black polyester stretch ribbed collar and cuffs. The collar can be loosened by unzipping two zippers that run from the top front of the collar to approximately halfway to the armpit. The bottom has a black polyester stretch ribbed waist and ankle cuffs.

The activated carbon particles in the top and bottom block the human scent of the wearer from wildlife while hunting. Information that you provided states that the scent blocking properties of the carbon particles do not become exhausted. Rather, these properties last for the life of the garments and are reactivated by drying the garments in the dryer following each washing.

In NY G86317, CBP classified the top and bottom in subheading 6815.10.0000, HTSUSA, which provides for “Articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included: Nonelectrical articles of graphite or other carbon.”

You argue that the top and bottom are properly classified in subheading 6815.10.0000, HTSUSA, because their “essential character” is imparted by the activated carbon particles in them. Alternatively, you argue that if the garments are not classified in subheading 6815.10.0000, HTSUSA, they are classified in subheading 9507.90.8000, HTSUSA, which provides for “Fishing rods, fish hooks and other line fishing tackle; fish landing nets, butterfly nets and similar nets; decoy “birds” (other than those of heading 9208 or 9705) and similar hunting or shooting equipment; parts and accessories thereof: Other: Other, including parts and accessories: Other, including parts and accessories.”

ISSUE:

Whether the top and bottom are properly classified in heading 6815, HTSUSA, as articles of other mineral substances not elsewhere specified or included; in Section XI, HTSUSA, as textile articles of apparel; or in heading 9507, HTSUSA, as other articles of hunting equipment.

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). 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).

GRI 1, in its entirety, states:

1. The table of contents, alphabetical index, and titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according [to the remaining GRIs, in order].

Part III of the EN to GRI 1 states, in pertinent part, that:

The second part of [GRI 1] provides that classification shall be determined:

- (a) according to the terms of the headings and any relative Section or Chapter Notes, and
- (b) where appropriate, **provided the headings or Notes do not otherwise require**, according to the provisions of Rules 2, 3, 4, and 5.

Part IV of the EN to GRI 1 emphasizes that:

Provision (III) (a) is self-evident, and many goods are classified in the Nomenclature without recourse to any further consideration of the Interpretative Rules (e.g., live horses (heading 01.01), pharmaceutical goods specified in Note 4 to Chapter 30 (heading 30.06)).

The literature that you provided and Robinson's website refer to the articles at issue, respectively, as a "shirt" and "pant." The articles are also referred to collectively in the literature as "clothing." Furthermore, the patents on the technology that Robinson incorporates in the top and bottom all apply to "odor absorbing clothing." Nevertheless, you argue that the top and bottom are not properly classified as a "shirt" and "pant" because their "essential character" is imparted by the activated carbon particles in them.

"Essential character" is a term used in GRI 3(b). The essential character of an article is determinative only when classification of the article is determined pursuant to that GRI. Where the article is classified pursuant to the GRIs that precede GRI 3(b), the "essential character" of the article is not determinative unless the term appears in legal notes relevant to the articles being classified.

The top and bottom are both constructed of knit polyester (See HQ 967321 classifying the fabric with which the garments are made as a textile fabric). Any garments made from this fabric, therefore, are textile articles of apparel. Consequently, we find that there are headings in Section XI that specifically provide for the articles. Heading 6105, HTSUSA, which provides for, among other articles, men's knitted shirts, specifically provides for the top.

Heading 6103, HTSUSA, which provides for, among other articles, men's knitted trousers provides for the bottom.

Having concluded that the top and bottom are specifically captured by headings in Section XI, we must examine whether the top and bottom are excluded from classification in that Section by any relative section or chapter notes. Note 1(q) to Section XI excludes, among other things, "carbon fibers or articles of carbon fibers of heading 6815." While one layer of the top and bottom does contain carbon, it contains activated carbon particles, not fibers. Based on our research and information submitted by the patent-holder of the technology that Robinson incorporates in the top and bottom, it would not be possible to make the top and bottom with carbon fibers, as carbon fibers are too brittle and could not be constructed into a garment.

In light of the above, we find that Note 1(q) to Section XI does not exclude the top and bottom from classification in Section XI, HTSUSA. We find the top and bottom are classified as what they are described as in the literature that you provided and on Robinson's website, that is, a "shirt" and a "pant." The top is classified in heading 6105, HTSUSA, as a men's knitted shirt. The bottom is classified in heading 6103, HTSUSA, as men's knitted trousers. The presence of activated carbon particles in one layer of the garments does not remove the articles from the scope of the headings.

Your alternative assertion is that the top and bottom are classified in subheading 9507.90.8000, HTSUSA, which provides for, among other things, other articles of hunting equipment. You argue that the garments are classifiable in this provision because they are "specifically designed for use in the sport of hunting." You cite the holding of the recent Court of Appeals for the Federal Circuit ("CAFC") case, Bauer Nike Hockey USA, Inc. v. United States, 393 F.3d 1246 (Fed. Cir., 2004), as support for this argument.

In the Bauer case, the CAFC held that two styles of hockey pants were classified as ice hockey equipment under subheading 9506.99.25, HTSUSA. In making the determination that the pants were *prima facie* classifiable in this provision, the CAFC stated: "[b]ecause it is undisputed that Bauer's pants were specifically designed and intended for use only while playing ice hockey, we hold . . . that the pants are *prima facie* classifiable under subheading 9506.99.25 as ice-hockey equipment." You argue that the same definition of "equipment" applied by the CAFC in regard to subheading 9506.99.25, HTSUSA, is applicable to subheading 9507.90.8000, HTSUSA.

First, we note the structural difference between heading 9506 and 9507, HTSUSA. Heading 9506, HTSUSA, in its entirety, reads:

Articles and **equipment** for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof. [Emphasis added].

And, heading 9507, HTSUSA, in its entirety, reads:

Fishing rods, fish hooks and other line fishing tackle; fish landing nets, butterfly nets and similar nets; decoy "birds" (other than those of heading 9208 or 9705) and similar hunting or shooting **equipment**; parts and accessories thereof. [Emphasis added].

While "equipment" appears in the words of particular description in heading 9506, HTSUSA, it appears in the general terms of heading 9507, HTSUSA. Whereas the definition of "equipment" applied by the CAFC in Bauer affects the words of particular description in heading 9506, HTSUSA, the definition

does not affect the words of general description in heading 9507, HTSUSA. Rather, we find the rule of *ejusdem generis* to be determinative of whether articles not specifically covered by heading 9507, HTSUSA, are classified in this heading. In *Van Dale Industries v. United States*, 18 C.I.T. 247 (Ct. Int'l Trade, 1994), *aff'd* 50 F.3d 1012 (Fed. Cir. 1995), in discussing *ejusdem generis*, the court affirmed that:

[o]ne rule of statutory construction is *ejusdem generis*, which means “of the same kind, class, or nature.” Black’s Law Dictionary 464 (5th ed. 1979). This rule applies “whenever a doubt arises as to whether a given article not specifically named in the statute is to be placed in a class of which some of the individual subjects are named.” [citing *United States v. Damrak Trading Co.*, 43 C.C.P.A. 77, 79 (C.C.P.A., 1956)].

Under *ejusdem generis*, where particular words of description are followed by general terms, the latter will be regarded as referring to things of a like class with those particularly described. *Id.* The court in *Sports Graphics v. United States*, 24 F. 3d 1390 (Fed. Cir., 1994), affirmed this principle when it held that, “[a]s applicable to classification cases, *ejusdem generis* requires that the imported merchandise possess the essential characteristics or purposes that unite the articles enumerated *eo nomine* in order to be classified under the general terms.”

In the case at hand, the top and bottom at issue do not fall within the class of merchandise particularly described in heading 9507, HTSUSA. The exemplars listed in heading 9507, HTSUSA, are articles that are requisite for sport, instruments directly used to hunt, attract, or capture fish, butterflies, etc. Comparatively, the top and bottom are not directly used to hunt animals. While they mask the human scent of the wearer, they in no way attract animals. Additionally, they in no way resemble any of the exemplars and do not share their physical characteristics.

The EN to heading 9507 further support that the garments at issue are not classifiable in heading 9507, by identifying the “similar hunting or shooting equipment” that is covered by heading 9507. The EN states, in relevant part, that:

This heading covers:

- * * * * *
- (4) **Certain hunting or shooting requisites** such as decoy “birds” (but **not including** decoy calls of all kinds (**heading 92.08**) or stuffed birds of **heading 97.05**) and lark mirrors.

The EN names only certain requisites for hunting, none of which remotely resemble the top and bottom at issue.

For these reasons, we find that the definition of “equipment” applied by the CAFC in *Bauer* does not affect the classification of the top and bottom at issue. Additionally, the principle of *ejusdem generis* does not support classification of the top and bottom in heading 9507, HTSUSA, as the top and bottom are not in the same class as the specifically named exemplars in the heading or the articles described in the EN to that heading.

HOLDING:

NY G86317 is hereby revoked.

The ScentBlocker® Underguard™ Top is classified under subheading 6105.20.2010, HTSUSA, which provides for: “Men’s or boys’ shirts, knitted

or crocheted: Of man-made fibers: Other: Men's." The 2005 column 1, "General" duty rate for this merchandise is 32 percent *ad valorem*.

The ScentBlocker® Underguard™ Bottom is classified under subheading 6103.43.1520, HTSUSA, which provides for: "Men's or boys' suits, ensembles, suit-type jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted or crocheted: Trousers, bib and brace overalls, breeches and shorts: Of synthetic fibers: Trousers, breeches and shorts, Other, Trousers and Breeches: Men's." The 2005 column 1, "General" duty rate for this merchandise is 28.2 percent *ad valorem*.

The ScentBlocker® Underguard™ Top falls within textile category 638 and the ScentBlocker® Underguard™ Bottom falls within textile category 647. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

Gail A. Hamill for MYLES B. HARMON,
Director;
Commercial and Trade Facilitation Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

HQ 967321
October 5, 2005
CLA-2:RR:CR:TE: 967321 BtB
CATEGORY: Classification
TARIFF NO.: 6006.34.0040

DAVID A. RIGGLE, ESQ.
RIGGLE AND CRAVEN
8430 West Bryn Mawr Avenue
Suite 525
Chicago, IL 60631

RE: Revocation of NY F83890; certain ScentBlocker® three-layer fabric with activated-carbon particles embedded in one layer

DEAR MR. RIGGLE:

This is in reconsideration of New York Ruling Letter (NY) F83890, dated March 24, 2000, issued to the Customs broker for Robinson Laboratories

Inc. ("Robinson") by the U.S. Customs Service, now the Bureau of Customs and Border Protection (hereinafter "CBP"), concerning the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of certain ScentBlocker® fabric made in England. As you now represent Robinson in this matter, this letter is addressed to you.

We have reviewed NY F83890 and have determined that the classification of the fabric provided is incorrect. This ruling sets forth the correct classification of the fabric. Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY F83890 was published in the *Customs Bulletin*, Volume 39, Number 35, on August 24, 2005. CBP received no comments during the notice and comment period that closed on August 23, 2005.

FACTS:

On February 24, 2000, Robinson's Customs broker requested a tariff classification ruling on the ScentBlocker® fabric that is the subject of NY F83890. In NY F83890, this fabric is described as "a laminated fabric consisting of an outer polyester knit fabric and an inner non-woven fabric impregnated with carbon for use in manufacturing scent eliminating hunting clothes." The original sample of the fabric and any accompanying literature were destroyed on September 11, 2001, in our former 6 World Trade Center office in New York City.

Notice of Proposed Revocation of NY F83890 was originally published in the *Customs Bulletin*, Volume 38, Number 21, on May 19, 2004. As the original sample and literature were destroyed, the proposed ruling by CBP to revoke NY F83890 (Headquarters Ruling (HQ) 966423) was drafted using the limited available information about the fabric. During the Notice and Comment Period of Proposed Revocation, you contacted and informed us that several of our statements in HQ 966423 regarding the construction of the ScentBlocker® fabric that is the subject of NY F83890 were not accurate. On Robinson's behalf, you provided samples of garments made with the fabric (the garments that are the subject of HQ 967320) and literature to this office on July 20, 2004, along with arguments against revocation of NY F83890. A Withdrawal of Proposed Revocation of NY F83890 was published in the *Customs Bulletin*, Volume 38, Number 34, on August 18, 2004. We met with you on February 3, 2005 to discuss your arguments and you provided CBP with additional information and arguments against revocation on February 21, 2005.

A sample of the fabric was taken from the garments that you provided. Laboratory analysis of this fabric showed that it is composed of three layers, not two layers as set forth in NY F83890. The fabric's outer layer, printed in a camouflage pattern, is made of a weft knit interlock construction and is composed wholly of polyester. The middle layer is composed of activated carbon particles embedded in a nonwoven polyester construction. The inner layer has a weft knit construction and is composed wholly of polyester. The three layers are held together with adhesive material that is not visible in the cross section. The fabric has the following composition by weight of the entire fabric: top printed layer: 50.9%, middle nonwoven layer: 15.4%, inner layer: 21.8%, activated carbon and binder: 11.9%.

The fabric is used to manufacture garments designed to be worn while hunting. The activated carbon particles in the fabric block the human scent

of the wearer from wildlife while hunting. Information that you provided states that the scent blocking properties of the carbon particles do not become exhausted. Rather, these properties last for the life of the garments made of the fabric and are reactivated by drying the garments in the dryer following each washing.

In NY F83890, CBP classified the fabric in subheading 6815.10.0000, HTSUSA, which provides for "Articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included: Nonelectrical articles of graphite or other carbon." For reasons set forth below, you argue that the fabric was properly classified in NY F83890.

ISSUE:

Whether the fabric is properly classified in heading 6815, HTSUSA, as an article of other mineral substances not elsewhere specified or included, or in Section XI, HTSUSA, as textile fabric.

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). 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).

The fabric at issue cannot be classified pursuant to GRI 1 since more than one heading describes it. Three headings describe the fabric. First, heading 6815, HTSUSA, which provides for "Articles of stone or of other mineral substances (including carbon fibers, articles of carbon fibers and articles of peat), not elsewhere specified or included;" second, heading 6006, HTSUSA, which provides for "Other knitted and crocheted fabrics;" and finally, heading 5603, HTSUSA, which provides for "Nonwovens, whether or not impregnated, coated, covered, or laminated" describe the fabric. However, while the first part of heading 6815, HTSUSA, describes the fabric as an article of other mineral substances, the fabric is not an article of carbon fibers (as it contains carbon particles, not carbon fibers) and therefore, the parenthetical part of the heading does not describe the fabric.

We do not consider the fabric to be described by heading 3802, HTSUSA (which provides for, among other things, activated carbon), since this provision does not cover articles of activated carbon, but merely the substance itself. Also, we do not consider the fabric to be described by heading 5903, HTSUSA (which provides for "Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902") because there is no plastic visible in its cross section.

As the articles cannot be classified pursuant to GRI 1, we apply the remaining GRI, in order. GRI 2(a) pertains to incomplete or unfinished articles and is not relevant in this instance. GRI 2(b) states:

Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances [and] any reference to goods

of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

The fabric at issue is a good consisting of more than one material or substance, those being knitted polyester, nonwoven polyester and carbon particles. By application of GRI 2(b), they are *prima facie* classifiable under more than one heading. Specifically, the fabric is *prima facie* classifiable under heading 6815, HTSUSA, as an article of other mineral substances not elsewhere specified or included, heading 6006, HTSUSA, as other knitted fabric, and heading 5603, HTSUSA, as impregnated nonwoven fabric. Accordingly, classification must be made according to the principles of GRI 3. GRI 3(a) states, in pertinent part:

3. When by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:
 - (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods . . . those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
 - (b) Mixtures, composite goods consisting of different materials or made up of different components . . . which cannot be classified by reference to 3(a), shall be classified by as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

* * *

Under GRI 3(a), the three headings that refer to the fabric must be regarded as equally specific since each refers to only part of the materials from which the fabric is made. Since the headings are to be considered equally specific, classification must be determined by application of GRI 3(b). The pertinent portions of the EN to GRI 3(b) provide as follows:

(VII) In all these cases the goods are to be classified as if they consisted of the material or component **which gives them their essential character**, insofar as this criterion is applicable.

(VIII) The factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.

The literature that you provided and Robinson's website refer to the article at issue as "fabric." The patent grants issued on articles of apparel ("odor absorbing clothing") made with the fabric also refer to the article at issue as "fabric." Nevertheless, you argue that the article at issue is not properly classified as fabric because its "essential character" is imparted by the activated carbon particles in it. In support of this position, you have emphasized that the fabric (all three layers) is merely a medium for delivering

the scent blocking properties of the carbon particles. Also, in support of this position, you have provided information emphasizing that fabric incorporating activated carbon particles is substantially more expensive than fabric without such particles.

In searching for the material that gives the fabric its essential character, we must review each of the fabric's layers. The essential character of the fabric's outer and inner layers is imparted by the knitted polyester, the only material in those layers. The middle layer, however, is composed of activated carbon particles and nonwoven polyester. The EN to heading 5603, in pertinent part, states that:

Nonwovens may be dyed, printed, impregnated, coated, covered or laminated. Those covered on one or both surfaces (by sewing, gumming or by any other process) with textile fabric or with sheets of any other material are classified in this heading only if they derive their essential character from the nonwoven.

The EN states, that heading 5603 excludes: "Nonwovens, impregnated, coated or covered with substances or preparations . . . where the textile material is present merely as a carrying medium." In the case at hand, we find that the nonwoven in the middle layer functions only as a carrying medium for the activated carbon particles. Therefore, we do not find that the nonwoven imparts the essential character into the middle layer. Rather, we find that the activated carbon particles impart the essential character into the middle layer. Accordingly, the middle layer of the fabric would separately be classifiable under heading 6815, HTSUSA.

We recognize that the activated carbon particles embedded in the middle layer of the fabric provide it with its scent blocking properties, the feature that would likely prompt purchase and use of the fabric. We also accept the validity of the information that you presented stating that fabric incorporating activated carbon particles is substantially more expensive than similar fabric without such particles. And, we acknowledge that the fabric does act as a medium for delivering scent blocking properties of the carbon particles.

However, the merchandise at issue is, in and of itself, fabric that will be used to manufacture clothing designed for hunting. This is how the article at issue is described by Robinson and in patent grants on articles of apparel made with the fabric. While the merchandise does act as a medium for the carbon's properties, it could be used as fabric even without the carbon particles in the middle layer. Furthermore, based on our research and information submitted by the patent-holder of the technology that Robinson incorporates in the fabric, we understand that garments could not be constructed wholly of carbon fibers, as they are too brittle and could not be constructed into a garment. Limitations on the use of carbon fibers in garments therefore necessitate using constructions like that of the fabric at issue, with carbon particles embedded in a textile layer. The outer layer's knit fabric is more substantial than any of the other layers, weighing more than double the inner layer, which is the next heaviest layer. The outer layer forms the surface of the fabric and its camouflage printing adds to the fabric's marketing appeal and functionality of the garments that will be made from the fabric. In light of the above, we find that it is the outer layer of the fabric that gives its essential character to it. Accordingly, the fabric is classified as if it consisted solely of the material in the outer layer, the knitted polyester, in heading 6006, HTSUSA.

Having concluded that the fabric falls within the scope of a heading in Section XI, we must examine whether the fabric is excluded from classification in that Section by any relative section or chapter notes. Note 1(q) to Section XI excludes, among other things, “carbon fibers or articles of carbon fibers of heading 6815.” While one layer of the fabric does contain carbon, it contains activated carbon particles, not fibers. In light of the above, we find that Note 1(q) to Section XI does not exclude the fabric from classification in Section XI, HTSUSA.

HOLDING:

NY F83890 is hereby revoked.

The ScentBlocker® fabric is classified under 6006.34.0040, HTSUSA, which provides for: “Other knitted or crocheted fabrics: Of synthetic fibers: Printed: Of double knit or interlock construction: Of polyester.” The 2005 column 1, “General” duty rate for this merchandise is 10 percent *ad valorem*.

The ScentBlocker® fabric falls within textile category 222. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the “Textile Status Report for Absolute Quotas” which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

**PROPOSED MODIFICATION AND REVOCATIONS OF
 RULING LETTERS AND REVOCATION OF TREATMENT
 RELATING TO TARIFF CLASSIFICATION OF CERTAIN
 SOCKS AND BOOTIES WITH ATTACHED RATTLES**

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

ACTION: Notice of proposed modification and revocation of five ruling letters and revocation of treatment relating to the tariff classification of certain socks and booties with attached rattles.

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 Imple-

mentation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) intends to modify one ruling letter and revoke four ruling letters relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of certain socks and booties with attached rattles. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before November 18, 2005.

ADDRESS: Written comments are to be addressed to Customs and Border Protection, Office of Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT: Teresa Frazier, Tariff Classification and Marking Branch, at (202) 572–8821.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify one ruling letter and revoke four ruling letters relating to the tariff classification of certain socks and booties with attached rattles. Although in this notice CBP is specifically referring to the modification of New York Ruling Letter (NY) H86160, dated January 3, 2002, and the revocation of Port Decision (PD) D88311, dated March 3, 1999; NY F86031, dated May 3, 2000; NY A81415, dated April 5, 1996; and NY H86887, dated January 18, 2002 (set forth as Attachments A through E to this document), 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 five 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.

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 intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved with 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 its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY H86160, dated January 3, 2002, CBP classified merchandise identified as "Whoozit Booties" in subheading 9503.90.0080, HTSUSA, which provides, in pertinent part for, other toys. In PD D88311, dated March 3, 1999, CBP classified two products identified as "Foot Rattles" in subheading 9503.90.0045, HTSUSA, which provided, in pertinent part, for other toys. In NY F86031, dated May 3, 2000, CBP classified merchandise identified as "Kids II Foot Rattles" in subheading 9503.41.0010, HTSUSA, which provided, in pertinent part for, stuffed toys representing animals or non-human creatures. In NY A81415, dated April 5, 1996, CBP classified an article described as a "Foot Rattle" in subheading 9503.90.0030, HTSUSA, which provided, in pertinent part, for other toys. In NY H86887, dated January 18, 2002, CBP classified an item identified as a "Duck Rattle Sock/Foot Jingle" in subheading 9503.90.0080, HTSUSA, which provides, in pertinent part for, other toys.

Upon review of these rulings, CBP has determined that the identified merchandise was classified incorrectly. The merchandise should be classified as follows:

- In NY H86160, style 200840, the pair of “Whoozit Booties”, should be classified in subheading 6209.30.3040, HTSUSA, which provides for “Babies’ garments and clothing accessories: Of synthetic fibers: Other . . . Other.”
- In PD D88311, the two styles of “Foot Rattles”, identified as styles 2209 and 2409, should be classified in subheading 6209.30.3040, HTSUSA,
- In NY F86031 (the “Kids II Foot Rattles”), NY A81415 (the “Foot Rattle”), and NY H86887 (the “Duck Rattle Sock/Foot Jingle”), the goods should be classified in heading 6115, which covers, among other goods, socks and other hosiery and footwear without applied textile soles, knitted or crocheted. When each importer provides the fiber content of these textile articles, the eight-digit level classification and quota category number can be determined.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify NY H86160 and revoke PD D88311, NY F86031, NY A81415, NY H86887, and any other ruling not specifically identified, in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letters (HQ) 967729, HQ 967731, HQ 967730, HQ 967732 and HQ 967733, set forth as Attachments F through J 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: October 5, 2005

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION

NY H86160
January 3, 2002
CLA-2-95:RR:NC:SP:225 H86160
CATEGORY: Classification
TARIFF NO.: 9503.70.0000; 9503.90.0080;
4202.92.4500; 6405.20.9090

MR. JOHN MATTSO
NORTH STAR WORLD TRADE SERVICES, INC.
980 Lone Oak Road Suite 160
Eagan, MN 55121

RE: The tariff classification of toys, a bag and booties from China

DEAR MR. MATTSO:

In your letter dated December 11, 2001 you requested a tariff classification ruling on behalf of your client Manhattan Toy.

Several samples were provided. The first, called Photo Tote Travel Toy #200650 consists of one bag and five different sized flat soft photo frames. A picture can be placed in each of the flat frames all of which fit into the bag. Designed for children 18 to 48 months old, the toy help the child with face recognition provides hide and seek play, as well as tactile play. The purpose of the bag is to store the frames as well as providing manipulative play.

The second item, called Groovy Girls(Trendy Travel #101430, is a set of three travel bags appropriately sized to be used by thirteen inch Groovy Girls(dolls. The items are cute representations of a rolling luggage case, tote bag and garment bag. Retail packed together and color coordinated, they are a luggage set for a doll.

Item three, called Groovy Girls(Bag #102880, is a bright pink bag made of vinyl sheeting measuring almost ten inches in diameter. Although proportioned for the forty-inch Groovy Girls(doll, it has a dual use as it is appropriately sized for a young girl.

The last samples are an assortment of booties for babies. Item 200520, Gingham Garden(Booties are made of either 100% man-made fibers or 65% polyester/35% cotton fibers. Both the uppers and soles are textile. The soles are covered with vinyl dots of approximately 2mm diameter and spaced 10mm apart on center horizontally and 7mm apart on center diagonally. Item 200790, Over the Moon(Booties are made of either 100% man-made fibers or 65% polyester/35% cotton fibers. Both the uppers and soles are textile. The soles are covered with vinyl dots of approximately 2mm diameter and spaced 10mm apart on center horizontally and 7mm apart on center diagonally.

Item 200840, Whoozit(Booties are made of either 100% man-made fibers or 65% polyester/35% cotton fibers. Both the uppers and soles are bright multicolored shiny textile. At the tip of the booties, which curves upward, is the head of a creature with a broad smile and large red nose. The head encloses a rattle. The booties serve as foot rattles. The face of the creature will be pointed toward the baby's head and will rattle when the child moves his or her legs.

The applicable subheading for the items 200650 and 101430 will be 9503.70.000, Harmonized Tariff Schedule of the United States (HTS), which provides for Other toys; . . . : Other toys, put up in sets or outfits, and parts and accessories thereof. The rate of duty will be free. The duty rate remains unchanged in 2002.

The applicable subheading for item 102880 will be 4202.92.4500, Harmonized Tariff Schedule of the United States (HTS), which provides for Travel, sports and similar bags: With outer surface of sheeting of plastic or of textile materials: Other. The rate of duty will be 20 percent ad valorem. The rate remains unchanged in 2002.

The applicable subheading for items 200520 and 200790 will be 6405.20.9090, Harmonized Tariff Schedule of the United States (HTS), which provides for Other footwear: With uppers of textile materials: Other: Other. The rate of duty will be 12.5 percent ad valorem. The rate remains unchanged in 2002.

The applicable subheading for item 200840 will be 9503.90.0080, Harmonized Tariff Schedule of the United States (HTS), which provides for Other toys; . . . : Other: Other. The rate of duty will be free. The duty rate remains unchanged in 2002.

Your samples are returned as requested.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Alice J. Wong at 646-733-3026.

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

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

PD D88311
March 3, 1999
CLA-2-95:L:OFO:D22 D88311
CATEGORY: Classification
TARIFF NO.: 9503.90.0045

MS. DONNA VAN DEN BROEKE
KAT IMPORT BROKERS, INC.
514 Eccles Avenue South
San Francisco, CA 94080

RE: The tariff classification of a foot rattle from China

DEAR MS. VAN DEN BROEKE:

In your letter dated February 17, 1999, you requested a tariff classification ruling on behalf of your client, GT Enterprises, Inc.

Two items, identified as "Foot Rattles" and designated as product nos. 2209 and 2409 were submitted with your request. The products are rattles attached to infant's leg socks made of 65% polyester and 35% cotton. The rattles are in a flat textile enclosure sewn to the bottom part of the sock. The attachments have either "Winnie the Pooh" or a "Sesame Street" character screen printed on the front side of the rattle enclosure. When placed on the infant's foot the movement of the leg will cause the rattle to make noise.

The applicable subheading for the foot rattles will be 9503.90.0045, Harmonized Tariff Schedule of the United States (HTS), which provides for other toys and models. The rate of duty will be free.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported.

EUGENIO GARZA JR.,
*Port Director,
Laredo, Texas.*

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

NY F86031
May 3, 2000
CLA-2-95:RR:NC:2:224 F86031
CATEGORY: Classification
TARIFF NO.: 9503.41.0010

M. LANE PRESTIGE TOY CORP.
140 Route 17 North Suite 269
Paramus, NJ 07652

RE: The tariff classification of a sock rattle from China.

DEAR M. LANE:

In your letter dated April 10, 2000, you requested a tariff classification ruling.

You are requesting the tariff classification on an item that you identify in your ruling request as a "foot jingle/rattle". The item will be packaged on a cardboard insert in a clear plastic bag. The cardboard insert describes the article as "Kids II Foot Rattles". The article is a pair of textile socks with a miniature stuffed dog permanently attached to each sock. Each stuffed toy dog has a rattle sewn into it that rattles when the baby wearing the socks kicks his/her feet. This type of item has been determined to be a toy in previous rulings (for example, New York rulings E87128 and A81415). There are no quota or visa requirements on this item, identified as a "Kids II Foot Rattle".

The applicable subheading for the sock rattle (Kids II Foot Rattle) will be 9503.41.0010, Harmonized Tariff Schedule of the United States (HTS), which provides for "Toys representing animals or non-human creatures . . . and parts and accessories thereof: Stuffed toys and parts and accessories thereof . . . Stuffed toys." The rate of duty will be free.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Tom McKenna at 212-637-7015.

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

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

NY A81415
April 5, 1996
CLA-2-95:RR:NC:FC: 225 A81415
CATEGORY: Classification
TARIFF NO.: 9503.90.0030

MR. ROBERT M. SHREVE
MARES-SHREVE & ASSOCIATES INC.
615 Second Avenue
Seattle, Washington 98104

RE: The tariff classification of a sock rattle from China

DEAR MR. SHREVE:

In your letter dated March 12, 1996 you requested a tariff classification ruling.

The subject article is described as a "Foot Rattle". One sample was submitted with your inquiry. The item consists of an infant sized sock with a rattle sewn to the instep area. The rattle itself is concealed within a lightly padded textile form that is printed with the face of an animal. The article provides a stimulating and entertaining form of amusement to an infant.

The applicable subheading for the "Foot Rattle" will be 9503.90.0030, Harmonized Tariff Schedule of the United States (HTS), which provides for other toys (except models), not having a spring mechanism. The rate of duty will be free.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Alice J. Wong at 212-466-5538.

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

[ATTACHMENT E]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

NY H86887
January 18, 2002
CLA-2-95:RR:NC:SP:225 H86887
CATEGORY: Classification
TARIFF NO.: 9503.90.0080

MS. GENEVIEVE M. RAFTER KEDDY
J.M. CUSTOMS BROKERS, INC.
147-55 175th Street
Jamaica, NY 11434

RE: The tariff classification of a Duck Rattle Sock/Foot Jingle from China or Thailand.

DEAR MS. KEDDY:

In your letter dated January 7, 2002, on behalf of Prestige Toy Corporation, you requested a tariff classification ruling.

The sample that you submitted, Duck Rattle Sock/Foot Jingle, consists of an infant sized sock with a rattle sewn to the front top of the sock. The rattle itself is concealed within a lightly padded cotton duck. The article provides a stimulating and entertaining form of amusement to an infant.

The applicable subheading for the Duck Rattle Sock/Foot Jingle will be 9503.90.0080, Harmonized Tariff Schedule of the United States (HTS), which provides for other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof: Other: Other. The rate of duty will be free. Currently, articles properly classified in HTS 9503.90.0080 are not subject to quota restraints or visa requirements.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Alice Wong at 646-733-3026.

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

[ATTACHMENT F]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

HQ 967729
CLA-2 RR:CTF:TCM 967729 TMF
CATEGORY: Classification
TARIFF NO.: 6209.30.3040

MR. JOHN MATTSON
NORTH STAR WORLD TRADE SERVICES, INC.
980 Lone Oak Road
Suite 160
Egan, Minnesota 55121

Re: Modification of New York Ruling Letter (NY) H86160, dated January 3, 2002; Classification of Whoozit Booties

DEAR MR. MARLOW:

In New York Ruling Letter (NY) H86160, issued to you January 3, 2002, this office classified merchandise identified as "Whoozit Booties," item number 200840, in subheading 9503.90.0080, HTSUSA, which provides, in pertinent part, for other toys. We have reviewed NY H86160, and with respect to the "Whoozit Booties," find it to be in error. Therefore, this ruling modifies NY H86160.

FACTS:

NY H86160 describes the subject Whoozit Booties as follows:

Item 200840, Whoozit Booties are made of either 100% man-made fibers or 65% polyester/35% cotton fibers. Both the uppers and soles are bright[,] multicolored shinny [sic] textile. At the tip of the booties, which curves upward, is the head of a creature with a broad smile and large red nose. The head encloses a rattle. The booties serve as foot rattles. The face of the creature will be pointed toward the baby's head and will rattle when the child moves his or her legs.

ISSUE:

What is the classification of the subject merchandise?

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. When goods cannot be classified solely on the basis of GRI 1 and if the terms of the headings and any relative section or chapter notes do not require otherwise, the remaining GRIs 2 through 6 may be applied.

Additionally, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) are 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. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Subheading 9503.90, HTSUSA, covers, in pertinent part, other toys. Chapter 95, HTSUSA, which provides essentially for toys, games and sports equipment, requires that an article classifiable therein must be designed

principally to amuse. The subject merchandise is not so designed. The subject booties are designed to be worn as apparel. The amusement aspect of the merchandise is secondary to its principal function, which is to cover the feet. The goods are more accurately described as booties than as other toys, and as booties with rattles, rather than rattles with booties. Thus, they are not properly classified in subheading 9503.90.

In this case, the subject booties are made of either 100 percent man-made fibers or a blend of 65 percent polyester/35 percent cotton fibers, with uppers and soles made of bright, multicolored shiny textile. The facts do not state whether the booties have an applied textile sole, nor whether the fabric is woven or knitted. We presume that the subject booties are woven and that they lack an applied sole. Thus, we find the merchandise is classifiable as babies garments in chapter 62, specifically in subheading 6209.30.3040, which provides for "Babies' garments and clothing accessories: Of synthetic fibers: Other . . . Other."

HOLDING:

NY H86160, dated January 3, 2002 is hereby modified. The subject "Whoozit Booties," item number 200840, are classifiable in subheading 6209.30.3040, which provides for "Babies' garments and clothing accessories: Of synthetic fibers: Other . . . Other." The general column one duty rate is 16 percent ad valorem, and the textile quota category is 239.

Quota/visa requirements are no longer applicable for merchandise which is the product of a World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas", which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions and related issues, we refer you to the web site at the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

MYLES B. HARMON,

Director,

Commercial Trade and Facilitation Division.

[ATTACHMENT G]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

HQ 967730
CLA-2 RR:CTF:TCM 967730 TMF
CATEGORY: Classification
TARIFF NO.: 6111

M. LANE
140 Route 17 North, Suite 269
Paramus, NJ 07652

Re: Revocation of New York Ruling Letter (NY) F86031, dated May 3, 2000;
Classification of "Kids II Foot Rattles"

DEAR MR. LANE:

In New York Ruling Letter (NY) F86031, issued to you May 3, 2000, this office classified merchandise identified as "Kids II Foot Rattles" in subheading 9503.41.0010, HTSUSA, which provides, in pertinent part for stuffed toys representing animals or non-human creatures. We have reviewed NY F86031 and with respect to the "Kids II Foot Rattles," find it to be in error. Therefore, this ruling revokes NY F86031.

FACTS:

NY F86031 describes the subject "Kids II Foot Rattles" as follows:

The item will be packaged on a cardboard insert in a clear plastic bag. The cardboard insert describes the article as "Kids II Foot Rattles". The article is a pair of textile socks with a miniature stuffed dog permanently attached to each sock. Each stuffed toy dog has a rattle sewn into it that rattles when the baby wearing the socks kicks his/her feet.

ISSUE:

What is the classification of the subject merchandise?

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. When goods cannot be classified solely on the basis of GRI 1 and if the terms of the headings and any relative section or chapter notes do not require otherwise, the remaining GRIs 2 through 6 may be applied.

Additionally, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) are 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. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Subheading 9503.41, HTSUSA, covers, in pertinent part, stuffed toys representing animals or non-human creatures. Chapter 95, HTSUSA, which provides essentially for toys, games and sports equipment, requires that an article classifiable therein must be designed principally to amuse. The subject merchandise is not so designed. The subject socks are designed to be worn as apparel. The amusement aspect of the merchandise is secondary to its principal function, which is to cover the feet. The goods are more accu-

rately described as socks than as stuffed toys representing animals or non-human creatures, and as socks with rattles, rather than rattles with socks. Thus, they are not properly classified in subheading 9503.41.

In this case, the facts of NY F86031 simply state that the merchandise is made of "textile", without specification as to the material's fiber content, whether they are woven or knitted, or possess an applied sole. Therefore, we presume that the socks do not have an applied sole, that they are knitted, and we find that they are classifiable in chapter 61, specifically under heading 6111.

Therefore, in light of the above analysis, the merchandise is classifiable in chapter 61, specifically under heading 6111. If the fiber content is determined to be of cotton, the subject socks are classifiable in subheading 6111.20.6050; if of a synthetic fiber, they are classifiable in subheading 6111.30.5050; or if of an artificial fiber, they are classifiable in subheading 6111.90.5050, HTSUSA. Once this information is provided by the importer, classification at the eight-digit level can be determined.

HOLDING:

NY F86031, dated May 3, 2000 is hereby revoked. The subject "Kids II Foot Rattles" are classifiable in heading 6111, which covers babies' garments and clothing accessories, knitted or crocheted. When the importer provides the fiber content of the textile material comprising the article, the eight-digit level classification and quota category number can be determined.

Quota/visa requirements are no longer applicable for merchandise which is the product of a World Trade Organization (WTO) member countries. The textile category number applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas", which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions and related issues, we refer you to the web site at the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

MYLES B. HARMON,

Director,

Commercial Trade and Facilitation Division.

[ATTACHMENT H]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

HQ 967731
CLA-2 RR:CTF:TCM 967731 TMF
CATEGORY: Classification
TARIFF NO.: 6111.30.5050

DONNA VAN DEN BROEKE
KAT IMPORT BROKERS, INC.
514 Eccles Avenue South
San Francisco, CA 94080

Re: Revocation of Port Decision (PD) D88311, dated March 3, 1999; Classification of two styles of "Foot Rattles"

DEAR MS. VAN DEN BROEKE:

In Port Decision (PD) D88311, issued to you March 3, 1999, two styles of merchandise identified as "Foot Rattles" were classified in subheading 9503.90.0045, HTSUSA, which provided, in pertinent part, for other toys. We have reviewed PD D88311 and find it to be in error. Therefore, this ruling revokes PD D88311.

FACTS:

PD D88311 describes the two styles of Foot Rattles, identified as product numbers 2209 and 2409 as follows:

The products are rattles attached to infant's leg socks made of 65% polyester and 35% cotton. The rattles are in a flat textile enclosure sewn to the bottom part of the sock. The attachments have either "Winnie the Pooh" or a "Sesame Street" character screen printed on the front side of the rattle enclosure. When placed on the infant's foot the movement of the leg will cause the rattle to make noise.

ISSUE:

What is the classification of the subject merchandise?

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. When goods cannot be classified solely on the basis of GRI 1 and if the terms of the headings and any relative section or chapter notes do not require otherwise, the remaining GRIs 2 through 6 may be applied.

Additionally, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) are 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. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Subheading 9503.90, HTSUSA, covers, in pertinent part, other toys. Chapter 95, HTSUSA, which provides essentially for toys, games and sports equipment, requires that an article classifiable therein must be designed principally to amuse. The subject merchandise is not so designed. The subject booties are designed to be worn as apparel. The amusement aspect of

the merchandise is secondary to its principal function, which is to cover the feet. The goods are more accurately described as booties than as other toys, and as booties with rattles, rather than rattles with booties. Thus, they are not properly classified in subheading 9503.90.

In this case, the material comprising the subject socks is made of a blend of 65 percent polyester/35 percent cotton fibers. The facts do not state whether the socks have an applied sole, nor whether the material is woven or knitted. We presume that the subject socks are knitted and that they lack an applied sole. Therefore, we find the merchandise to be classifiable as babies garments in chapter 61, specifically subheading 6111.30.5050, HTSUSA, which provides for "Babies' garments and clothing accessories: knitted or crocheted: Of synthetic fibers: Other . . . Other: Babies' socks and booties."

HOLDING:

PD D88311, dated March 3, 1999, is hereby revoked. The two styles of "Foot Rattles", identified as styles 2209 and 2409, are classifiable in subheading 6111.30.5050, HTSUSA, which provides for "Babies' garments and clothing accessories: knitted or crocheted: Of synthetic fibers: Other . . . Other: Babies' socks and booties." The general column one duty rate is 16 percent. The textile quota category is 239.

Quota/visa requirements are no longer applicable for merchandise which is the product of a World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas", which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions and related issues, we refer you to the web site at the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

MYLES B. HARMON,

Director,

Commercial Trade and Facilitation Division.

[ATTACHMENT I]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

HQ 967732
CLA-2 RR:CTF:TCM 967732 TMF
CATEGORY: Classification
TARIFF NO.: 6111

MR. ROBERT M. SHREVE
MARE-SHREVE & ASSOCIATES, INC.
615 Second Avenue
Seattle, Washington 98104

Re: Revocation of New York Ruling Letter (NY) A81415, dated April 5, 1996;
Classification of a "Foot Rattle"

DEAR MR. SHREVE:

In New York Ruling Letter (NY) A81415, issued to you April 5, 1996, merchandise identified as a "Foot Rattle" was classified in subheading 9503.90.0030, HTSUSA, which essentially provided for other toys. We have reviewed NY A81415 and find it to be in error. Therefore, this ruling revokes NY A81415.

FACTS:

NY A81415 describes the subject "Foot Rattle" as follows:

The item consists of an infant sized sock with a rattle sewn to the instep area. The rattle itself is concealed within a lightly padded textile form that is printed with the face of an animal. The article provides a stimulating and entertaining form of amusement to an infant.

ISSUE:

What is the classification of the subject merchandise?

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. When goods cannot be classified solely on the basis of GRI 1 and if the terms of the headings and any relative section or chapter notes do not require otherwise, the remaining GRIs 2 through 6 may be applied.

Additionally, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) are 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. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Subheading 9503.90, HTSUSA, covers, in pertinent part, other toys. Chapter 95, HTSUSA, which provides essentially for toys, games and sports equipment, requires that an article classifiable therein must be designed principally to amuse. The subject merchandise is not so designed. The subject socks are designed to be worn as apparel. The amusement aspect of the merchandise is secondary to its principal function, which is to cover the feet.

The goods are more accurately described as socks than as other toys, and as socks with rattles, rather than rattles with socks. Thus, they are not properly classified in subheading 9503.90.

In this case, the facts of NY A81415 do not indicate whether the subject socks are woven or knitted, whether they have an applied sole, nor do they provide any information about fiber content. We presume that they are knitted, that they do not have an applied sole, and find that they are classifiable in chapter 61, specifically heading 6111. If the fiber content is determined to be of cotton, the subject socks are classifiable in subheading 6111.20.6050; if of a synthetic fiber, they are classifiable in subheading 6111.30.5050; or if of an artificial fiber, they are classifiable in subheading 6111.90.5050, HTSUSA. Once this information is provided by the importer, classification at the eight-digit level can be determined.

HOLDING:

NY A81415, dated April 5, 1996 is hereby revoked. The subject "Foot Rattle" is classifiable in heading 6111, which covers babies' garments and clothing accessories, knitted or crocheted. When the importer provides the fiber content of the textile material comprising the article, the eight-digit level classification and quota category number can be determined.

Quota/visa requirements are no longer applicable for merchandise which is the product of a World Trade Organization (WTO) member countries. The textile category number applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas", which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions and related issues, we refer you to the web site at the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

MYLES B. HARMON,
Director,
Commercial Trade and Facilitation Division.

[ATTACHMENT J]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION

HQ 967733
CLA-2 RR:CTF:TCM 967733 TMF
CATEGORY: Classification
TARIFF NO.: 6111

MS. GENEVIEVE M. RAFTER KEDDY
J.M. CUSTOMS BROKERS, INC.
147-55 175th Street
Jamaica, NY 11734

Re: Revocation of New York Ruling Letter (NY) H86887, dated January 18, 2002; Classification of a "Duck Rattle Sock/Foot Jingle"

DEAR MS. RAFTER KEDDY:

In New York Ruling Letter (NY) H86887, issued to you January 18, 2002, merchandise identified as "Duck Rattle Sock/Foot Jingle" was classified in subheading 9503.90.0080, HTSUSA, which essentially provides for other toys. We have reviewed NY H86887 and find it to be in error. Therefore, this ruling revokes NY H86887.

FACTS:

NY H86887 describes the subject article as follows:

Duck Rattle Sock/Foot Jingle, consists of an infant sized sock with a rattle sewn to the front top of the sock. The rattle itself is concealed within a lightly padded cotton duck. The article provides a stimulating and entertaining form of amusement to an infant.

ISSUE:

What is the classification of the subject merchandise?

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. When goods cannot be classified solely on the basis of GRI 1 and if the terms of the headings and any relative section or chapter notes do not require otherwise, the remaining GRIs 2 through 6 may be applied.

Additionally, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) are 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. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Subheading 9503.90, HTSUSA, covers, in pertinent part, other toys. Chapter 95, HTSUSA, which provides essentially for toys, games and sports equipment, requires that an article classifiable therein must be designed principally to amuse. The subject merchandise is not so designed. The subject socks are designed to be worn as apparel. The amusement aspect of the merchandise is secondary to its principal function, which is to cover the feet.

The goods are more accurately described as socks than as other toys, and as socks with rattles, rather than rattles with socks. Thus, they are not properly classified in subheading 9503.90.

In this case, the facts of NY H86887 do not indicate whether the subject socks are woven or knitted, whether they have an applied sole, nor do they provide any information about fiber content. We presume that they are knitted, that they do not have applied soles, and find that they are classifiable in chapter 61, specifically heading 6111. If the fiber content is determined to be of cotton, the subject socks are classifiable in subheading 6111.20.6050; if of a synthetic fiber, they are classifiable in subheading 6111.30.5050; or if of an artificial fiber, they are classifiable in subheading 6111.90.5050, HTSUSA. Once this information is provided by the importer, classification at the eight-digit level can be determined.

HOLDING:

NY H86887, dated January 18, 2002 is hereby revoked. The subject "Duck Rattle Sock/Foot Jingle" is classifiable in heading 6111, which covers babies' garments and clothing accessories, knitted or crocheted. When the importer provides the fiber content of the textile article, the eight-digit level classification and quota category number can be determined.

Quota/visa requirements are no longer applicable for merchandise which is the product of a World Trade Organization (WTO) member countries. The textile category number applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas", which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions and related issues, we refer you to the web site at the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

MYLES B. HARMON,
Director,
Commercial Trade and Facilitation Division.