

Bureau of Customs and Border Protection

General Notices

Annual User Fee for Customs Broker Permit and National Permit:
General Notice

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

ACTION: Notice of Due Date for Customs Broker User Fee

SUMMARY: This is to advise Customs brokers that the annual fee of \$125 that is assessed for each permit held by a broker whether it may be an individual, partnership, association or corporation, is due by January 20, 2006. This announcement is being published to comply with the Tax Reform Act of 1986.

DATES: Due date for payment of fee: January 20, 2006.

FOR FURTHER INFORMATION CONTACT: Russell Morris, Broker Management Branch, (202) 344-2717.

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

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

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

This document notifies brokers that for 2006, the due date of the user fee is January 20, 2006. It is expected that the annual user fees

for brokers for subsequent years will be due on or about the twentieth of January of each year.

DATED: November 14, 2005

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

[Published in the Federal Register, November 21, 2005 (70 FR 70084)]

**Departmental Advisory Committee on Commercial
Operations of Customs and Border Protection and Related
Functions (COAC)**

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the fourth meeting of the ninth term of the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Functions (COAC), and the expected agenda for its consideration.

DATES: The next meeting of the COAC will be held on Thursday, December 1, 2005, 9 a.m. to 1 p.m.

ADDRESSES: The meeting will be held in the "Pavillion" of the Ronald Reagan Building, 1300 Pennsylvania Avenue, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Monica Frazier, Office of the Assistant Secretary for Policy, Department of Homeland Security, Washington, DC 20528, telephone 202-282-8431; facsimile 202-282-8504. Members of the public may submit written comments at any time before or after the meeting to the contact person for consideration by this Advisory Committee.

SUPPLEMENTARY INFORMATION: The fourth meeting of the ninth term of the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Functions (COAC) will be held at the date, time and location specified above. This notice also announces the expected agenda for that meeting below. This meeting is open to the public; however, participation in COAC deliberations is limited to COAC members, Homeland Security and Treasury Department officials, and persons invited to attend the meeting for special presentations. Since seating is limited, all persons attending this meeting should provide notice preferably by close of business Monday, November 28, 2005, to Ms. Monica Frazier, Office of the Assistant Secretary for Policy, Department of

Homeland Security, Washington, DC 20528, telephone 202-282-8431; facsimile 202-282-8504.

Information on Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Monica Frazier, Office of the Assistant Secretary for Policy, Department of Homeland Security, Washington, DC 20528, telephone 202-282-8431; facsimile 202-282-8504, as soon as possible.

Draft Agenda

- 1. Introductory Remarks**
- 2. DHS Second Stage Review (“2SR”) and the Secure Freight Initiative**
- 3. Update on HSPD-13, Maritime Security Policy**
- 4. Security Subcommittee–C-TPAT (Customs-Trade Partnership Against Terrorism”)**
 - A. Carrier Criteria
 - B. Benefits
 - C. Automation
 - D. Performance Measures
- 5. Update on Green Lane Task Force**
- 6. Radiation Portal Monitoring Implementation Issues**
- 7. World Customs Organization Framework/Implementation**
- 8. Centralization of Bond Processing**
- 9. Update from CBP**
 - A. Textiles & Apparel Entry Processing
 - B. International Trade Data Systems
 - C. Update on ACE (Automated Commercial Environment)
 - D. FDA/USDA Update
- 10. Broker Confidentiality**
- 11. New Action Items**
- 12. Adjourn**

STEWART A. BAKER,
Assistant Secretary for Policy,
United States Department of Homeland Security.

Dated: November 10, 2005

[Published in the Federal Register, November 16, 2005 (70 FR 69584)]



Docket No. USCBP-2005-0036

Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee

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

ACTION: Notice of Federal Advisory Committee Meeting

SUMMARY: The U. S. Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee will hold a meeting on November 30, 2005. This meeting will be open to the public.

DATE: Wednesday November 30, 2005.

ADDRESSES: The meeting will be held at Customs International Briefing Conference Room (B 1.5–10), Ronald Reagan Building, 1300 Pennsylvania Avenue, NW, Washington, DC 20229 from 12:30 p.m. - 4:00 p.m. Members of the public may submit written comments at any time before or after the meeting to the contact person for consideration by this Advisory Committee. Written comments received by the contact person prior to the meeting will be considered for discussion at the meeting. A transcript of the meeting will be made available online for public viewing about two weeks following the meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Roberto Williams, Office of Finance, Room 4.5A, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229; telephone: (202) 344–1101; email: Roberto.M.Williams@dhs.gov.

SUPPLEMENTARY INFORMATION:

Agenda of Meeting

The agenda of the November 30 meeting is expected to include:

1. Introduction of the Committee members;
2. Discussion of activities since last meeting;
3. Discussion of workload and financial issues;
4. Discussion of future traffic trends;
5. Discussion of specific concerns and questions of Committee members;
6. Discussion of relevant written statements submitted in advance by members of the public;
7. Discussion of Committee administrative issues and scheduling of next meeting

Background on the CBP Airport and Seaport Inspections User Fee Advisory Committee

The CBP Airport and Seaport Inspections User Fee Advisory Committee (hereinafter the “Advisory Committee”) was created under the authority of Section 286(k) of the Immigration and Nationality Act of 1952, as amended by the Department of Justice Appropriations Act of 1986 [P.L. 99–59; enacted October 30, 1986] (8 U.S.C. 1356(k)). Formerly known as the Immigration and Naturalization Service (INS) Airport and Seaport Inspections User Fee Advisory Committee, the original Advisory Committee was responsible only

for immigration airport and seaport inspectional services and associated user fees. The Executive Associate Commissioner, Immigration and Naturalization Service (INS) chaired that advisory committee.

The Homeland Security Act of 2002 merged portions of the U.S. Customs Service and the INS to create Customs and Border Protection (CBP), as part of the Department of Homeland Security (DHS). Section 1512(d) of the Homeland Security Act of 2002 transferred the responsibilities of the Advisory Committee to CBP. Under CBP, the executive Directors of Budget, Office of Finance; and Travel Security and Facilitation, Office of Field Operations, chair the Advisory Committee.

The Advisory Committee held its first meeting under the direction of CBP in October 2003. A subsequent meeting was held in April 2004. It is noted that before the creation of DHS, there was an advisory committee called the Consolidated Omnibus Budget Reconciliation Act (COBRA) Fees Advisory Committee, which met to discuss user fee issues related to customs inspectional services. All advisory responsibilities previously handled by the COBRA Fees Advisory Committee have been vested within this Advisory Committee.

In June 2005, the Advisory Committee's charter was renewed and amended in consultation with the DHS Committee Management Officer. The charter reflects the broader responsibilities of CBP, providing that the Advisory Committee will give advice and recommendations on policy and program issues relating to CBP inspectional services at airports and seaports, whether the inspectional services relate to agriculture, customs, or immigration functions.

Purpose of Committee

The purpose of this Advisory Committee is the performance of advisory responsibilities pursuant to section 286(k) of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. 1356(k) and the Federal Advisory Committee Act, 5 U.S.C. app. 1 et seq. This Advisory Committee will advise on issues related to the performance of Airport and Seaport agriculture, customs, and immigration inspection services. This advice should include, but need not be limited to, the time period in which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. These responsibilities are related to the assessment of an immigration user fee pursuant to 8 U.S.C. 1356(d), the assessment of a customs inspection user fee pursuant to 19 U.S.C. 58c(a)(5), and the assessment of an agriculture inspection user fee pursuant to 21 U.S.C. 136a. The Advisory Committee focuses its attention on those areas of most concern and benefit to the travel industry, the traveling public, and the Federal Government.

Public Attendance

A limited number of members of the public may register to attend the public session on a first-come, first-served basis per the procedures that follow. Security requires that any member of the public who wishes to attend the public session provide his or her name and date of birth no later than 5:00 p.m. E.S.T., November 25, 2005, to Mr. Roberto Williams via e-mail at Roberto.M.Williams@dhs.gov or via phone at (202) 344-1101. Persons with disabilities who require special assistance should indicate so in their admittance request and are encouraged to indicate their desires to attend and anticipated special needs as early as possible. Photo identification will be required for entry into the public session, and everyone in attendance must be present and seated by 12:30 p.m.

Dated: November 10, 2005

ELAINE P. KILLORAN,
*Acting Assistant Commissioner,
Office of Finance,
Customs and Border Protection.*

[Published in the Federal Register, November 16, 2005 (70 FR 69585)]

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

Washington, DC, November 16, 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.

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



19 CFR PART 177

REVOCATION OF RULING LETTER AND TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF A NETWORK
INTERFACE UNIT

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

ACTION: Notice of revocation of a ruling letter and treatment relating to tariff classification of a network interface unit under the Harmonized Tariff Schedule of the United States (“HTSUS”).

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended, (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that CBP is revoking one ruling pertaining to the tariff classification of a network interface unit under the HTSUS and any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed revocation was published on October 5, 2005, in the CUSTOMS BULLETIN, Volume 39, Number 41. No comments were received in response to this notice. However, CBP incorrectly cited to New York Ruling Letter (NY) C88716, dated June 26, 1998, in the notice. This action revokes NY C87716, dated May 18, 1998, and has no effect on NY C88716.

EFFECTIVE DATE: This revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 29, 2006.

FOR FURTHER INFORMATION CONTACT: Deborah Stern, Tariff Classification and Marking Branch (202) 572–8785.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **informed compliance** and **shared responsibility**. These concepts are premised on the idea that in order to maximize voluntary compliance with CBP laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the 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, CBP published a notice in the October 5, 2005 CUSTOMS BULLETIN, Volume 39, Number 41, proposing to revoke NY C87716, dated May 18, 1998, and to revoke any treatment accorded to substantially identical transactions regarding the tariff classification this network interface unit. No comments were received in response to the proposed action. However, it is noted that CBP incorrectly cited to NY C88716, dated June 26, 1998, in the proposed notice. NY C88716 covers substantially different goods. This action has no effect on NY C88716, and the errors are corrected herein.

As stated in the proposed notice, this 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 those identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during this notice period. An importer's failure to ad-

wise 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 notice of this final decision.

In NY C87716, CBP classified a network interface unit that CBP was led to believe was for the transmission of telephonic voice signals and cable television signals. It was classified in subheading 8525.10.3035, Harmonized Tariff Schedule of the United States Annotated ("HTSUSA"), which provides for, among other apparatus, transmission apparatus for cable television.

However, the importer has now informed CBP that the unit transmits, modulates and demodulates only voice and voiceband data signals, and not cable television signals, as was originally believed. Product literature supports the importer's assertion. Therefore, it is now CBP's position that the network interface unit should be classified in heading 8517, specifically subheading 8517.50.5000, HTSUSA, which provides for "Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones; parts thereof: Other apparatus for carrier-current line systems or for digital line systems: Other: Telephonic."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY C87716 and any other ruling not specifically identified to reflect the proper classification of the subject merchandise or substantially similar merchandise, pursuant to the analyses set forth in HQ 967795, which is set forth as the Attachment to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by 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: November 14, 2005

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

[Attachment]

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

HQ 967795

November 14, 2005

CLA-2 RR: CTF: TCM 967795 DBS

CATEGORY: Classification

TARIFF NO.: 8517.50.9000

ARRIS INTERNATIONAL, INC.
(FORMERLY ARRIS INTERACTIVE)
3871 Lakefield Drive
Suwannee, GA 30024

RE: Revocation of NY C87716; Network Interface Unit

DEAR SIR or MADAM:

On May 18, 1998, the Director, National Commodity Specialist Division (NCSO), issued to your then-agent, C.H. Powell Company, New York Ruling Letter (NY) C87716, classifying a Network Interface Unit (NIU) in subheading 8525.10.3035, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), as transmission apparatus for television because both cable video and telephone signals were routed through the unit. In light of new information submitted to this office by an agent of ARRIS International, Inc., about the function of the NIU, we have found the classification to now be incorrect. This ruling sets forth the correct classification.

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 the above-identified ruling was published on October 5, 2005, in the CUSTOMS BULLETIN, Volume 39, Number 41. No comments were received in response to the notice.

FACTS:

Based on the information submitted in the ruling request, NY C87716 described the NIU's functions as splitting off an RF (radio frequency) video signal and transmitted it to a customer's television unit, and converted the RF signal back to a telephony signal and transmitted it to the customer's telephone unit. As it transmitted both cable and telephone signals, CBP classified the good according to these multiple functions.

CBP has now been informed that at the time of the ruling request, the product was still under development and had not yet been distributed or sold. After the product was released for general sale and distribution, the NIU became the Voice Port. The Voice Port enables digital telephonic communication over a standard Hybrid-Fiber-Coax network. The NIU is situated on a cable television line where it receives and demodulates incoming digital RF carrier telephony signals delivered by the cable provider, and it converts the signal to voice or voiceband data (fax). It does not transmit or receive cable television signals. Descriptive product literature indicates that the system in which this good operates is for line telephony. The unit has not been physically modified in any material aspect between the issuance of NY C87716 and now.

ISSUE:

Whether the new information about the function of the NIU warrants a change in the classification as “telecommunication apparatus for digital line systems” under heading 8517, Harmonized Tariff Schedule of the United States (HTSUS).

LAW AND ANALYSIS:

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

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. The ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. CBP believes the ENs should always be consulted. See T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS headings at issue are as follows:

8517 Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones; parts thereof:

* * *

8525 Transmission apparatus for radiotelephony, radiotelegraphy, radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras; still image video cameras and other video camera recorders; digital cameras.

EN 85.17 (IV) describes apparatus for carrier current line systems or for digital line systems in relevant part as follows:

These systems are based on the modulation of an electrical carrier-current or of a light beam by analogue or digital signals. Use is made of the carrier-current modulation technique and pulse code modulation (PCM) or some other digital system. These systems are used for the transmission of all kinds of information (characters, graphics, images, or other data, etc.).

The NIU falls squarely within heading 8517, HTSUS, because it is apparatus for line telephony, receiving and demodulating incoming digital RF carrier telephony signals.

EN 85.25 (B) describes transmission apparatus for radio-broadcasting or television as having to be for the transmission of signals by means of electromagnetic waves transmitted through the ether without any line connection, but that television apparatus falls here whether the transmission is by electro-magnetic waves or by line.

Contrary to the suggestion by ARRIS International, Inc., apparatus of heading 8525, HTSUS, may use a line connection if it is for television. As we believed the NIU to transmit cable television signals, it was also covered by

the terms of heading 8525, HTSUS. Section XVI, Note 3 provides that apparatus designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that which performs the principal function. At the time NY C87716 was issued, no information was available to determine the principal function of the NIU. Section XVI, General EN (VI) directs that “where it is not possible to determine the principal function . . . it is necessary to apply General Interpretative Rule 3(c).” Therefore, GRI 3(c), which states that a good was to be classified under the heading which occurs last in numerical order among those which equally merit consideration, was applied to classify the apparatus in heading 8525, HTSUS.

CBP has now learned from ARRIS that the NIU does not, in fact, transmit or receive cable television signals. A review of the product literature establishes that the apparatus is only a telecommunication device though it uses coaxial cable lines. It is apparent now that the initial ruling request was based upon a theoretical application of the apparatus. Heading 8525, HTSUS, is no longer relevant to the classification of the good. As the NIU receives, modulates, demodulates and transmits voice or voiceband data (fax), it is wholly covered by the terms of heading 8517, HTSUS, and is classified therein. Accordingly, NY C87716 is incorrect. CBP has classified other such apparatus that are part of a telephony distribution system designed to deliver integrated line telephony over hybrid fiber-coax networks. See NY J83173 (May 7, 2003); NY J83595 (May 7, 2003) and NY J83596 (May 7, 2003). Though the units classified therein had four lines of telephony and may be provisioned for cable TV service and data transmission (via a specialized feature), heading 8517, HTSUS, was determined to be the appropriate classification. Other devices that transmit communications signals through coaxial cable lines are also classified in heading 8517, HTSUS. See HQ 964524 (October 22, 2001) (classifying cable modems).

Next, to determine the proper subheading under heading 8517, we apply GRI 6, which allows for the application of the legal notes at the subheading level, unless context otherwise requires. Only subheadings at the same level are comparable. The NIU is clearly provided for in the 6-digit subheading 8517.50, HTSUS, which provides for “Other apparatus, for carrier-current line systems or for digital line systems.” As the unit transmits voice and data, it is covered by the 8-digit subheadings for telephonic apparatus and for telegraphic apparatus, we must apply Note 3 to Section XVI, *supra*.

In reviewing the descriptive literature, we cannot determine which is the principal function. Therefore, we apply GRI 3(c), as discussed above, to classify the unit in subheading 8517.50.90, which provides for “Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones; parts thereof: Other apparatus for carrier-current line systems or for digital line systems: Other: Telegraphic.” This is consistent with NY J83173, NY J83595 and NY J83596, *supra*.

HOLDING:

The Network Interface Unit, now known as the Voice Port, is classified in heading 8517, HTSUS. It is specifically provided for in subheading 8517.50.9000, HTSUSA, as “Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line

systems; videophones; parts thereof: Other apparatus for carrier-current line systems or for digital line systems: Other: Telegraphic: Other." The 2005 column one rate of duty 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.

EFFECT ON OTHER RULINGS:

NY C87716, dated May 18, 1998, is hereby REVOKED. In accordance with 19 U.S.C 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

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

