

Bureau of Customs and Border Protection

CBP Decisions

19 CFR PART 101

CBP Dec. 06-15

USCBP-2005-0001

CLOSING OF THE PORT OF NOYES, MINNESOTA, AND EXTENSION OF THE LIMITS OF THE PORT OF PEMBINA, NORTH DAKOTA

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

ACTION: Final Rule.

SUMMARY: This rule amends the Department of Homeland Security regulations pertaining to the field organization of the Bureau of Customs and Border Protection by closing the port of entry of Noyes, Minnesota, and extending the limits of the port of entry of Pembina, North Dakota, to include the rail facilities located at Noyes. The closure and extension are the result of the closure by the Canadian Customs and Revenue Agency of the Port of Emerson, Manitoba, Canada, which is located north of the Port of Noyes, and the close proximity of the Port of Noyes to the Port of Pembina.

DATES: Effective July 10, 2006.

FOR FURTHER INFORMATION CONTACT: Dennis Dore, Office of Field Operations, 202-344-2776.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 12, 2005, the Bureau of Customs and Border Protection (CBP) published a Notice of Proposed Rulemaking (NPRM) in the

Federal Register (70 FR 47151) proposing to close the Port of Noyes, Minnesota, and extend the limits of the Port of Pembina, North Dakota, to include the rail facilities located at Noyes. The reason for the proposed rulemaking was that on June 8, 2003, the Canadian Customs and Revenue Agency closed the East Port of Emerson, Manitoba, Canada, which is located north of the Port of Noyes. The factors influencing their decision to close the Port of Emerson included the age of the facility, the close proximity of a port at Emerson West, declining workload, and resource considerations. The Port of Noyes, which is located two miles from the CBP Port of Pembina, processes on average three trucks, 50 vehicles, 154 passengers and three trains per day. CBP did not receive any comments on the NPRM.

As part of a continuing program to utilize more efficiently its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, CBP is closing the Port of Noyes and extending the limits of the Port of Pembina as proposed. CBP is extending the limits of the Port of Pembina to encompass the railroad yard located at Noyes, Minnesota, owned by the Canadian Pacific Railway and the Burlington Northern Santa Fe Railway. The Port of Pembina will assume responsibility for processing trains as they arrive at Noyes. However, other traffic must utilize the border crossing within the City of Pembina and will no longer be processed at Noyes. The office facility at Noyes will continue to be used to support the needs of several Border Patrol agents and Immigration and Customs Enforcement (ICE) agents. Security gates and surveillance cameras have also been installed at the Port of Noyes to ensure continued remote monitoring of that location by the Port of Pembina.

NEW PORT LIMITS OF THE PORT OF PEMBINA, NORTH DAKOTA

Accordingly, CBP is amending 19 CFR 101.3(b)(1) to reflect that the new limits of the port of entry of Pembina, North Dakota, are as follows:

City of Pembina, North Dakota, and the rail facilities located at Noyes, Minnesota.

AUTHORITY

These changes are being made pursuant to 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624, and the Homeland Security Act of 2002, Pub. L. 107-296 (November 25, 2002).

CONGRESSIONAL NOTIFICATION

On September 15, 2003, the Commissioner of CBP notified Congress of CBP's intention to close the Port of Noyes, Minnesota, fulfilling the congressional notification requirements of 19 U.S.C. 2075(g)(2) and section 417 of the Homeland Security Act (6 U.S.C. 217).

THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

With DHS approval, CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. This regulatory action will not have a significant economic impact on a substantial number of small entities. Accordingly, it is certified that this document is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

In addition, DHS and the Office of Management and Budget have determined that this final rule does not constitute a significant regulatory action as defined under Executive Order 12866.

SIGNING AUTHORITY

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, the final rule is signed by the Secretary of Homeland Security.

LIST OF SUBJECTS IN 19 CFR PART 101

Customs ports of entry, Exports, Imports, Organization and functions (Government agencies).

AMENDMENT TO THE REGULATIONS

For the reasons set forth above, 19 CFR part 101 is amended as set forth below.

1. The general authority citation for part 101 continues to read and the specific authority citation for § 101.3 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

* * * * *

§ 101.3 [Amended]

2. Amend § 101.3(b)(1) as follows:

a. Under the state of Minnesota, remove the entry “Noyes” from the “Ports of entry” column and the corresponding entry “E.O. 5835, Apr. 13, 1932.” from the “Limits of port” column; and

b. Under the state of North Dakota, adjacent to Pembina, add in the “Limits of port” column the citation “CBP Dec. 06-15 ”.

Date: June 2, 2006

MICHAEL CHERTOFF,
Secretary.

[Published in the Federal Register, June 8, 2006 (71 FR 33235)]



General Notices

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, June 7, 2006

The following documents of the Bureau of Customs and Border Protection (“CBP”), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

SANDRA L. BELL,
*Acting Assistant Commissioner,
Office of Regulations and Rulings.*

19 CFR PART 177

PROPOSED MODIFICATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF CERTAIN WIRE HARNESSSES AND NAFTA ELIGIBILITY

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

ACTION: Notice of proposed modification of two ruling letters and revocation of treatment relating to the classification of certain wire harnesses and North American Free Trade Agreement (NAFTA) eligibility.

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) intends to modify two ruling letters relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of certain wire harnesses and their eligibility as originating goods under the NAFTA. Similarly, CBP proposes to revoke 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 July 21, 2006.

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

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Tariff Classification and Marking Branch, at (202) 572-8828.

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, this notice advises interested parties that CBP intends to modify two ruling letters relating to the tariff classification of certain wire harnesses and the eligibility of treatment as originating goods under NAFTA. Although in this notice CBP is specifically referring to the modification of Headquarters Ruling Letter (HQ) 546674, dated April 16, 1998, (Attachment A) and HQ 957188, dated February 9, 1995, (Attachment B), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found.

Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should 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 HQ 957188 and HQ 546674, CBP stated that, "[t]he proper interpretation of the tariff shift requirement of General Note 12(t)/85.147(B), HTSUS, is that the non-originating materials must change to subheadings 8544.11 through 8544.60, from any other subheading within that group or headings 7408, 7413, 7605, or 7614, whether or not there is a change from any other subheading, provided the regional value content requirement is met." Based on our recent review of HQ 957188, HQ 546674, and General Note (GN) 12(t)/85.147(B), HTSUS, we have determined that the tariff shift analysis in HQ 957188 and HQ 546674, performed pursuant to GN 12(t)/85.147(B), HTSUS, is incorrect. It is now CBP's position that GN 12(t)/85.147(B), HTSUS, requires that, in order for a transformation/tariff shift to occur there must be a change in the tariff classification of a good to subheadings 8544.11 through 8544.60 from heading 7408, 7413, 7605 or 7614, HTSUS, and the good must also have a regional value content of not less than 60% where the transaction value method is used, or 50% where the net cost method is used. A change to subheadings 8544.11 through 8544.60, HTSUS, from any other subheading, including another subheading within subheadings 8544.11 through 8544.60, HTSUS, may only take place if there is also a change in classification of the good from heading 7408, 7413, 7605 or 7614, HTSUS.

Pursuant to 19 U.S.C. §1625(c)(1), CBP intends to modify HQ 957188 and HQ 546674, and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper tariff shift requirements pursuant to the analysis set forth in proposed Headquarters Ruling Letters (HQ) 968072 (Attachment C) and HQ968074 (Attachment D). Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions that are contrary to the determination set forth in this notice. Before tak-

ing this action, consideration will be given to any written comments timely received.

DATED: June 2, 2006

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 546674
April 16, 1998
RR:IT:VA 546674 KCC
CATEGORY: Valuation

MR. DONALD PFEIFFER
PRETTL ELECTRIC CORPORATION
1721 White Horse Road
Greenville, South Carolina 29605

RE: Article 509; NAFTA; wire harnesses; automotive good; insulated wire; originating good; non-originating good; tariff shift requirement; de minimis; 2, 5 and 9(1) of the NAFTA Rules of Origin Regulation; traced material; light-duty automotive good; Schedule IV of NAFTA Rules of Origin Regulation; non-originating material's value

DEAR MR. PFEIFFER:

This is in regard to your letter dated February 19, 1997, concerning the applicability of the North American Free Trade Agreement (NAFTA) to wire harnesses when imported into the United States. We regret the delay in responding.

FACTS:

Prettl Electric Corporation (Prettl) is transferring part of its production of wire harnesses for the automotive industry to its Mexican subsidiary. In the manufacture of these wire harnesses, Prettl will use both originating and non-originating materials. The Mexican subsidiary will manufacture the wire harness, as described below, and export the finished wire harnesses into the U.S. You state that the completed wire harnesses when imported into the U.S. are classified under subheading 8544.30.00, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "[i]gnition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships." The following components are incorporated into the completed wire harnesses:

Component Made in HTSUS housing USA subheading 8536.69 gold male terminal USA subheading 8536.90.006 tin terminal USA subheading

8536.90.006 □ red spacer USA subheading 8538.90.600 □ silicon rubber tube Germany subheading 4009.30.000 □ white insulated wire USA or Germany subheading 8544.59.400 □ black insulated wire USA or Germany subheading 8544.59.400 □ gray insulated wire USA or Germany subheading 8544.59.400 □ metal cap USA subheading 8708.10.001 □ plastic grommet Germany subheading 3926.90.4590 □ rubber bushing seals USA subheading 4016.93.000.02 □ rubber o-ring seal China subheading 4016.93.5050 □ connector terminal Germany subheading 8536.90.0060

The first step in the manufacturing process is a simultaneous operation executed in one machine where the black insulated wire (x1) is cut according to specification and the gold male terminal is crimped on one side. This same operation is repeated for the gray insulated wire (x1) and the white insulated wire (x1) with the only difference being that the white insulated wire receives the tin terminal. Next, the silicon rubber tube is cut according to length. Thereafter, the four plug wire is connected to the housing, thread through the tube and the red spacer is inserted into the housing. This assembly operation is manually completed by one operator. The protection cap is assembled by inserting the rubber o-ring seal on the plastic grommet which is pressed into the metal cap. The other insulated wire ends are inserted into the grommet. Then, one bushing seal is assembled on each insulated wire and pulled into the grommet. Last, the connector terminal is crimped onto each insulated wire. After assembly, the wire harnesses are inspected for quality control, packaged in plastic and imported into the U.S.

ISSUE:

Are the wire harnesses considered to be “originating goods” pursuant to the NAFTA rules of origin?

LAW AND ANALYSIS:

□4 of the NAFTA Rules of Origin Regulations, Appendix to Part 181, Customs Regulations (19 CFR Appendix to Part 181) sets forth the rules for determining whether a good originates in the territory of a NAFTA Party. For example, a good will originate if it was “wholly obtained or produced” in accordance with □4(1) of the NAFTA Rules of Origin Regulations, or if it satisfies the applicable change in tariff classification, the applicable regional value calculation (RVC) requirement or combination thereof under □4(2) of the NAFTA Rules of Origin Regulations, to cite but a few possibilities.

As the wire harnesses are classified under subheading 8544.30.00, HTSUS, a transformation is authorized by Schedule I of the NAFTA Rules of Origin Regulations, specifically, General Note 12(t)/85.147, HTSUS, which states:

(A) A change to subheadings 8544.11 through 8544.60 from any subheading outside that group, except from headings 7408, 7413, 7605 or 7614; or

(B) A change to subheadings 8544.11 through 8544.60 from headings 7408, 7413, 7605 or 7614, whether or not there is also a change from any other subheading, including another subheading within subheadings 8544.11 through 8544.60, provided there is also a regional value content of not less than:

- (1) 60 percent where the transaction value method is used, or
- (2) 50 percent where the net cost method is used.

The wire harnesses must meet the requirements of either General Note 12(t)/85.147(A), HTSUS, or General Note 12(t)/85.147(B), HTSUS, to qualify as an “originating good”; they do not have to meet both tests.

1. Insulated Wire Made in the U.S.A - "P/N 6 002 LGO 021 and 024"

In this situation, the non-originating materials are silicon rubber tube, plastic grommet, rubber o-ring seal, and connector terminal. All the remaining components are considered to be "originating goods." All of the non-originating components are not classified within subheadings 8544.11 through 8544.60, or headings 7408. 7413, 7605 or 7614. Thus, a change in tariff classification occurs. The wire harnesses manufactured from the non-originating silicon rubber tube, plastic grommet, rubber o-ring seal, and connector terminal meet the tariff shift requirements of General Note 12(t)/85.147(A), HTSUS, and, therefore, are considered to be "originating goods."

2. Insulated Wire Made in Germany - "P/N 6 002 LGO 020, 021, 023 and 024"

In this situation, the non-originating materials are insulated wire, silicon rubber tube, plastic grommet, rubber o-ring seal, and connector terminal. All the remaining components are considered to be "originating goods." All of these non-originating components, except the insulated wire, are not classified within subheadings 8544.11 through 8544.60, or headings 7408. 7413, 7605 or 7614. Thus, a change in tariff classification occurs. A change in tariff classification pursuant to General Note 12(t)/85.147(A), HTSUS, does not occur for the insulated wire because it is classified within subheading 8544.59.40, HTSUS.

However, □5 of the NAFTA Rules of Origin Regulations provides a de minimis rule for non-originating materials that do not undergo a required tariff change. □5 of the NAFTA Rules of Origin Regulations states that:

(1) Except as otherwise provided in subsection (4), a good shall be considered to originate in the territory of a NAFTA country where the value of the non-originating materials that are used in the production of the good and that do not undergo an applicable change in tariff classification as a result of production occurring entirely in the territory of one or more of the NAFTA countries is not more than seven percent

(a) of the transaction value of the good determined in accordance with Schedule II with respect to the transaction in which the producer of the good sold the good, adjusted to an F.O.B. basis, or

(b) of the total cost of the good, where there is no transaction value for the good under section 2(1) of Schedule III or the transaction value of the good is unacceptable under section 2(2) of that Schedule, provided that,

c) if, under the rule in which the applicable change in tariff classification is specified, the good is also subject to a regional value-content requirement, the value of those non-originating materials shall be taken into account in calculating the regional value content of the good in accordance with the method set out for that good, and

(d) the good satisfies all other applicable requirements of this Appendix. . .

□5 of the NAFTA Rules of Origin Regulations provide that the value of all non-originating materials which do not undergo a change in tariff classification must not be more than 7 percent of the transaction value of the good, adjusted to a F.O.B. basis; or, if there is no transaction value for the good under section 2(1) of Schedule III or the transaction value of the good is unacceptable under section 2(2) of that Schedule, the value of all such non-originating materials is not more than 7 percent of the total cost of the good. In this situation, the non-originating material which does not satisfy the tariff shift requirement is the insulated wire. Based on the information presented, it appears that the insulated wire which is imported into the NAFTA

territory from outside of the NAFTA territory constitutes more than 7 percent of the total cost of each wire harness. We note that you have supplied us with the total cost values without any indication of why the transaction value is unacceptable in accordance with Schedule II of the NAFTA Rules of Origin Regulations. Thus, □5 of the NAFTA Rules of Origin Regulations is inapplicable and the wire harnesses incorporating insulated wire from Germany are not considered "originating goods" pursuant to General Note 12(t)/85.147(A), HTSUS.

However, we are of the opinion that the wire harnesses do meet the tariff shift requirement of General Note 12(t)/85.147(B), HTSUS. The proper interpretation of the tariff shift requirement of General Note 12(t)/85.147(B), HTSUS, is that the non-originating materials must change to subheadings 8544.11 through 8544.60, from any other subheading within that group or headings 7408, 7413, 7605 or 7614, whether or not there is also a change from any other subheading, provided the regional value content requirement is met. See, Headquarters Ruling Letter (HRL) 957188 dated February 9, 1995. The imported insulated wire, which is classifiable under subheading 8544.59.40, HTSUS, meets the tariff shift requirement. Next, the wire harnesses must also meet the regional value content requirement, i.e., "(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used." □9(1) of the NAFTA Rules of Origin Regulations provides the following guidance regarding the regional value content of automotive goods:

For purposes of calculating the regional value content of a light-duty automotive good under the net cost method, the value of non-originating materials used by the producer in the production of the good shall be the sum of the values of the non-originating materials that are traced materials and are incorporated into the good.

Traced material is defined in □8 of the NAFTA Rules of Origin Regulations as:

a material, produced outside the territories of the NAFTA countries, that is imported from outside the territories of the NAFTA countries and is, when imported, of a tariff provision listed in Schedule IV.

Light-duty automotive good is defined in □2 of the NAFTA Rules of Origin Regulations as:

a light-duty vehicle or a good of a tariff provision listed in Schedule IV that is subject to a regional value-content requirement and is for use as original equipment in the production of a light-duty vehicle.

Light-duty vehicle is defined in □2 of the NAFTA Rules of Origin Regulations as:

a motor vehicle provided for in any of tariff items 8702.10.60 and 8702.10.60 (vehicles for the transport of 15 or fewer persons) and subheadings 8703.21 through 8703.90, 8704.21 and 8704.31.

Schedule IV (LIST OF TARIFF PROVISIONS FOR THE PURPOSES OF SECTION 9 OF THE APPENDIX) of the NAFTA Rules of Origin Regulations lists subheading 8544.30, HTSUS. Therefore, the wire harnesses met the definition of a light duty automotive good pursuant to □2 of the NAFTA Rules of Origin Regulations. To calculate the regional value content of the wire harnesses under the net cost method, we must calculate the value of the non-originating materials. Pursuant to □9(1) of the NAFTA Rules of Origin Regulations, the value of the non-originating materials is the sum of the values of the non-originating materials that are traced materials incorpo-

rated into the wire harnesses. In this situation the non-originating materials are the insulated wire, plastic grommet, rubber o-ring seal, rubber silicon tube and connector terminal. The insulated wire, plastic grommet and rubber o-ring seal are not listed in Schedule IV of the NAFTA Rules of Origin Regulations and, therefore, are not traced materials. However, the rubber silicon tube and connector terminal are listed as traced material in Schedule IV of the NAFTA Rules of Origin Regulations. Thus, the value of the insulated wire, plastic grommet and rubber o-ring seal are not included in the value of the non-originating materials when calculating the regional value content but they are included in the net cost of the wire harnesses. Whereas, the value of the rubber silicon tube and connector terminal is included in the value of the non-originating materials when calculating the regional value content.

Based on the cost information you submitted, the value of the non-originating materials is \$0.10. We assume that the value of the non-originating traced materials submitted in your cost information is made in accordance with the "Valuation of Traced Materials for VNM in the RVC" of §9(2) of the NAFTA Rules of Origin Regulations. The regional value content is the net cost minus the value of the non-originating materials, which is the traced materials in this case, divided by the net cost times 100. Your cost information per unit for "P/N 002 LGO 021 and 024" indicates the following calculation:

$(\$2.64 - \$0.10) \times 100 = 96.21\%$ \$2.64 Your cost information per unit for "P/N 002 LGO 020 and 023" indicates the following calculation:

$(\$2.74 - \$0.10) \times 100 = 96.35\%$ \$2.74 Thus, the regional value content in the case of the German made insulated wire is 96%. The wire harnesses in this situation meet the requirements of General Note 12(t)/85.147(B), HTSUS, and are considered "originating goods" pursuant to General Note 12(b)(ii), HTSUS.

HOLDING:

Based on the presented facts, the wire harnesses are found to be "originating goods" in accordance with NAFTA, provided all other applicable requirements are met.

This holding applies only to the specific factual situation and merchandise identified in the ruling request. This position is clearly set forth in §181.100(a)(2), Customs Regulations, which states that a NAFTA ruling letter is issued on the assumption that all the information furnished in connection with the ruling request and incorporated therein, directly, by reference, or by implication, is accurate and complete in every respect. Should it subsequently be determined that the information furnished is not complete and/or does not comply with 19 CFR §181.100(a)(2), this ruling will be subject to modification or revocation. In addition, any change in the facts furnished in connection with this ruling may affect the outcome of the regional value content determination. In such a case, it is recommended that a new ruling request be submitted in accordance with 19 CFR §181.93.

Sincerely,
Acting Director,
International Trade Compliance Division.

[ATTACHMENT B]

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

HQ 957188
February 9, 1995
CLA-2 CO:R:C:M 957188 KCC
CATEGORY: Classification
TARIFF NO.: 8544.30

ELIZABETH J. VANN, ESQ.
KEMP, SMITH, DUNCAN & HAMMOND, P.C.
P.O. Box 2800
El Paso, Texas 79901-1441

RE: Wire Harnesses; automotive good; Article 509; NAFTA; copper rod; 7407.10.50; insulated copper wire; 8544.40.00; non-insulated copper wire; 7408; plastic seals; 4016.93.00; General Note 12(b)(ii); originating good; non-originating good; tariff shift requirement; General Note 12(t)/85.147 (A) and (B); General Note 12(f); de minimis; 7 percent; Section 2, 5 and 9(1) of the NAFTA Rules of Origin Regulation; traced material; light-duty automotive good; light-duty vehicle; Schedule IV of NAFTA Rules of Origin Regulation; non-originating material's value

DEAR MS. VANN:

This is in response to your letter dated October 20, 1994, on behalf of United Technologies Automotive, Inc. (UTA), concerning the applicability of the North American Free Trade Agreement (NAFTA) to wire harnesses when imported into the United States.

FACTS:

UTA's Mexican subsidiary will be manufacturing wire harnesses, which are to be imported into the U.S., for use as original equipment in the production of a good provided for under subheading 8702.10.60 or 8702.90.60, HTSUS, or subheadings 8703.21 through 8703.90, 8704.21 or 8704.31, HTSUS. UTA manufactures hundreds of different models of wire harnesses in which the exact types and numbers of components can vary from model to model. You state that the following six fact situations represent the situations encountered by UTA in its manufacturing operations:

1. Copper rod classifiable under subheading 7407.10.50, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory, and processed in the NAFTA territory into insulated copper wire classifiable under subheading 8544.49.00, HTSUS. The insulated copper wire is then purchased by UTA and manufactured in Mexico into wire harnesses. The wire harnesses will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

We are asked to assume that the copper rod imported into the NAFTA territory is not an "originating good." Additionally, we are asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are "originating goods".

2. Insulated copper wire classifiable under subheading 8544.49.00, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory. The insulated copper wire is then purchased by UTA and manufac-

tured in Mexico into wire harnesses. The wire harnesses will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

We are asked to assume that the insulated copper wire, imported into the NAFTA territory is not an "originating good." Additionally, we are asked to assume that all other components of the wire harnesses, except for certain plastic seals classifiable under subheading 4016.93.00, HTSUS, meet the tariff shift requirements and/or are "originating goods".

We are also asked to assume that the value of the insulated copper wire which is imported into the NAFTA territory constitutes 7% of the total cost of each wire harness and that the value of the non-originating plastic seals which are incorporated into the wire harness constitutes 2% of the total cost of the wire harness, where there is no transaction value for the good under section 2(1) of Schedule III or the transaction value of the good is unacceptable under section 2(2) of Schedule III.

3. Insulated copper wire classifiable under subheading 8544.49.00, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory. The insulated copper wire is then purchased by UTA and manufactured in Mexico into wire harnesses. The wire harnesses will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

We are asked to assume that the insulated copper wire, imported into the NAFTA territory is not an "originating good." Additionally, we are asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are "originating goods".

We are also asked to assume that the value of the non-originating wire insulated copper wire exceeds the de minimis amount found in General Note 12(f), HTSUS.

4. Insulated copper wire classifiable under subheading 8544.49.00, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory. Non-insulated copper wire classifiable under heading 7408, HTSUS, is imported into the NAFTA territory from outside of the NAFTA territory. The non-insulated copper wire is insulated in the NAFTA territory to form insulated copper wire classifiable under subheading 8544.49.00, HTSUS. The imported insulated copper wire and the NAFTA manufactured insulated copper wire are then purchased by UTA and manufactured in Mexico into wire harnesses. The wire harnesses which include both imported insulated copper wire and NAFTA manufactured insulated copper wire, will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

We are asked to assume that the insulated copper wire and the non-insulated copper wire, imported into the NAFTA territory are not "originating goods." Additionally, we are asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are "originating goods".

We are also asked to assume that the value of the non-originating insulated copper wire and the non-insulated copper wire exceeds the de minimis amount found in General Note 12(f), HTSUS.

5. Insulated copper wire classifiable under subheading 8544.49.00, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory. Copper rod classifiable under subheading 7407.10.50, HTSUS, is imported into the NAFTA territory from outside of the NAFTA territory. The copper rod is extruded in the NAFTA territory to form copper wire and then insulated to form insulated copper wire classifiable under subheading 8544.49.00, HTSUS. The imported insulated copper wire and the NAFTA

manufactured insulated copper wire are then purchased by UTA and manufactured in Mexico into wire harnesses. The wire harnesses which include both imported insulated copper wire and NAFTA manufactured insulated copper wire, will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

We are asked to assume that the insulated copper wire and the copper rod, imported into the NAFTA territory are not "originating goods." Additionally, we are asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are "originating goods".

We are also asked to assume that the value of the non-originating insulated copper wire exceeds the de minimis amount found in General Note 12(f), HTSUS.

6. Insulated copper wire classifiable under subheading 8544.49.00, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory. Non-insulated copper wire classifiable under heading 7408, HTSUS, is manufactured in the NAFTA territory from NAFTA origin ore and/or NAFTA origin copper rod. The imported insulated copper wire and the NAFTA manufactured non-insulated copper wire are then purchased by UTA and manufactured in Mexico into wire harnesses. The wire harnesses which include both imported insulated copper wire and NAFTA manufactured non-insulated copper wire, will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

We are asked to assume that the insulated copper wire imported into the NAFTA territory is are not an "originating good." Additionally, we are asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are "originating goods".

We are also asked to assume that the value of the non-originating insulated copper wire exceeds the de minimis amount found in General Note 12(f), HTSUS.

With regards to the above fact situations, we are asked to disregard the regional value content requirement. You state that UTA is not requesting guidance regarding the calculation of regional value content. UTA is fully aware that it must comply with any applicable regional value content requirements. The above fact situations are representative situations which illustrate the NAFTA legal issues on which UTA needs guidance. UTA is specifically concerned with the application of the NAFTA tariff shift rules and the application of the de minimis rules to the wire harnesses.

ISSUE:

Are the wire harnesses considered to be "originating goods" pursuant to the rules of origin in General Note 12(b)(ii), HTSUS?

LAW AND ANALYSIS:

To be eligible for tariff preferences under the NAFTA, goods must be "originating goods" within the rules of origin in General Note 12(b), HTSUS. In this case, the method by which the wire harnesses imported into the United States may be "goods originating in the territory of a NAFTA party" is General Note 12(b)(ii), HTSUS. General Note 12(b)(ii), HTSUS, states that to be "goods originating in the territory of a NAFTA party":

(ii) they have been transformed in the territory of Canada, Mexico and/or the United States so that--

(A) except as provided in subdivision (f) of this note, each of the non-originating materials used in the production of such goods undergoes a change in tariff classification described in subdivision (r), (s) and (t) of this note or the rules set forth therein, or

(B) the goods otherwise satisfy the applicable requirements of subdivision (r), (s) and (t) where no change in tariff classification is required, and the goods satisfy all other requirements of this note. . . .

In the above-described fact situations, we must examine whether the wire harnesses are “transformed in the territory of Canada, Mexico and/or the United States” pursuant to General Note 12(b)(ii)(A), HTSUS. As the wire harnesses are classified under subheading 8544.30.00, HTSUS, a transformation is authorized by General Note 12(t)/85.147, HTSUS, which states:

(A) A change to subheadings 8544.11 through 8544.60 from any subheading outside that group, except from headings 7408, 7413, 7605 or 7614; or

(B) A change to subheadings 8544.11 through 8544.60 from headings 7408, 7413, 7605 or 7614, whether or not there is also a change from any other subheading, including another subheading within subheadings 8544.11 through 8544.60, provided there is also a regional value content of not less than:

- (1) 60 percent where the transaction value method is used, or
- (2) 50 percent where the net cost method is used.

The wire harnesses must meet the requirements of either General Note 12(t)/85.147(A), HTSUS, or General Note 12(t)/85.147(B), HTSUS, to qualify as an “originating good”; they do not have to meet both tests.

Fact Situation #1

In this situation, the non-originating material, i.e., copper rod, is classifiable under subheading 7407.10.50, HTSUS. Additionally, we are asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are “originating goods”. Since the copper rod is not classified within subheadings 8544.11 through 8544.60, or headings 7408, 7413, 7605 or 7614, a change in tariff classification occurs. The wire harnesses manufactured from non-originating copper rod meet the tariff shift requirements of General Note 12(t)/85.147(A), HTSUS, and, therefore, are considered to be “originating goods” pursuant to General Note 12(b)(ii), HTSUS.

Fact Situation #2

In this situation, the non-originating material, i.e., insulated copper wire and plastic seals, are classifiable under subheading 8544.49.00, and 4016.93.00, HTSUS, respectively. Additionally, we are asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are “originating goods”. Since the plastic seals are not classified within subheading 8544.11 through 8544.60, or headings 7408, 7413, 7605 or 7614, a change in tariff classification occurs for the plastic seals. A change in tariff classification does not occur for the insulated copper wire because it is classified within subheading 8544.49, HTSUS.

However, General Note 12(f), HTSUS, provides a de minimis rule for non-originating materials that do not undergo a required tariff change. General Note 12(f), HTSUS, states:

(i) . . . a good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in subdivision (t) of this note is not more than 7 percent of the transaction value of the good,

adjusted to a F.O.B. basis, or, if the transaction value is unacceptable under section 402(b) of the Tariff Act of 1930, as amended, the value of all such non-originating materials is not more than 7 percent of the total cost of the good, provided that--

(A) if the good is subject to a regional value-content requirement, the value of such non-originating materials shall be taken into account in calculating the regional value content of the good; and

(B) the good satisfies all other applicable requirements of this note.

Section 5 of the NAFTA Rules of Origin Regulations, Appendix to Part 181, Customs Regulations (19 CFR Appendix to Part 181), further describes the de minimis rule:

(1) Except as otherwise provided in subsection (4), a good shall be considered to originate in the territory of a NAFTA country where the value of the non-originating materials that are used in the production of the good and that do not undergo an applicable change in tariff classification as a result of production occurring entirely in the territory of one or more of the NAFTA countries is not more than seven percent

(a) of the transaction value of the good determined in accordance with Schedule II with respect to the transaction in which the producer of the good sold the good, adjusted to an F.O.B. basis, or

(b) of the total cost of the good, where there is no transaction value for the good under section 2(1) of Schedule III or the transaction value of the good is unacceptable under section 2(2) of that Schedule, provided that,

c) if, under the rule in which the applicable change in tariff classification is specified, the good is also subject to a regional value-content requirement, the value of those non-originating materials shall be taken into account in calculating the regional value content of the good in accordance with the method set out for that good, and

(d) the good satisfies all other applicable requirements of this Appendix. . .

In this situation, the non-originating material which does not satisfy the tariff shift requirement is the insulated copper wire. You asked us to assume that the insulated copper wire which is imported into the NAFTA territory from outside of the NAFTA territory constitutes 7 percent of the total cost of each wire harness and that all other components of the wire harnesses meet the tariff shift requirements and/or are "originating goods". Assuming these facts, the value of all the non-originating materials that do not undergo an applicable change in tariff classification is not more than 7 percent of the total cost of the wire harness.

General Note 12(f), HTSUS, states that the value of all non-originating materials which do not undergo a change in tariff classification must not be more than 7 percent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value is unacceptable under section 402(b) of the Tariff Act of 1930, as amended, the value of all such non-originating materials is not more than 7 percent of the total cost of the good. . . . We note that you have supplied us with total cost values without any indication of why the transaction value is unacceptable. Therefore, we are additionally asked to assume that the transaction value is unacceptable under section 402(b) of the Tariff Act of 1930, as amended. We proceed under this assumption without regard to whether the actual facts require otherwise.

We are of the opinion that the wire harnesses in this situation are "originating goods." The plastic seals meet the tariff shift requirement of General

Note 12(t)/85.147(A), HTSUS, and are considered to be “originating goods.” Therefore, the value of the plastic seals is not taken into account when calculating the de minimis exception. The insulated copper wire does not meet the tariff shift requirement, but it is valued at 7 percent of the total cost of each wire harness. The value of all the non-originating materials used in producing the wire harnesses which do not undergo the change in tariff classification is not more than 7 percent of the total cost of the wire harnesses. Therefore, pursuant to the de minimis exception, the insulated copper wire is ignored and the wire harnesses meet the tariff shift requirements of General Note 12(t)/85.147(A), HTSUS, and, therefore are considered “originating goods” pursuant to General Note 12(b)(ii), HTSUS.

Fact Situation #3

In this situation, insulated copper wire imported in the NAFTA territory is valued over 7 percent and is classifiable under subheading 8544.49.00, HTSUS. We are asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are “originating goods”. Since the insulated copper wire is classified within subheadings 8544.11 through 8544.60, a change in tariff classification does not occur pursuant to General Note 12(t)/85.147(A), HTSUS.

We are of the opinion that the wire harnesses do meet the tariff shift requirement of General Note 12(t)/85.147(B), HTSUS.

The proper interpretation of the tariff shift requirement of General Note 12(t)/85.147(B), HTSUS, is that the non-originating materials must change to subheadings 8544.11 through 8544.60, from any other subheading within that group or headings 7408, 7413, 7605 or 7614, whether or not there is also a change from any other subheading, provided the regional value content requirement is met. The imported insulated copper wire, which is classifiable under subheading 8544.49.00, HTSUS, meets the tariff shift requirement.

However, the wire harnesses must also meet the regional value content requirement, i.e., “(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.”

General Note 12(d), HTSUS, sets forth the following special rule for calculating the regional value content of automotive goods:

(i) For purposes of calculating the regional value content under the net cost method set out in subdivision (c)(ii) of this note for--

(A) a good that is a motor vehicle provided for in tariff item 8702.10.60 or 8702.90.60, or subheadings 8703.21 through 8703.90, inclusive, 8704.21 or 8704.31; or

(B) a good provided for in the tariff items listed in Annex 403.1 where the good is subject to a regional value-content requirement and is for use as original equipment in the production of a good provided for in tariff items 8702.10.60 or 8702.90.60, or subheadings 8703.21 through 8703.90, inclusive, 8704.21 or 8704.31, the value of non-originating materials used by the producer in the production of the good shall be the sum of the values of non-originating materials, determined in accordance with subdivision (c)(vii) of this note at the time the non-originating materials are received by the first person in the territory of Canada, Mexico or the United States who takes title to them; that are imported from outside the territories of Canada, Mexico and the United States under the tariff items listed in Annex 403.1 to the NAFTA and that are used in the production of the good or that are used in the production of any material used in the production of the good.

Section 9(1) of the NAFTA Rules of Origin Regulations provides the following guidance regarding the regional value content of automotive goods:

For purposes of calculating the regional value content of a light-duty automotive good under the net cost method, the value of non-originating materials used by the producer in the production of the good shall be the sum of the values of the non-originating materials that are traced materials and are incorporated into the good.

Traced material is defined in Section 8 of the NAFTA Rules of Origin Regulations as:

a material, produced outside the territories of the NAFTA countries, that is imported from outside the territories of the NAFTA countries and is, when imported, of a tariff provision listed in Schedule IV.

Light-duty automotive good is defined in Section 2 of the NAFTA Rules of Origin Regulations as:

a light-duty vehicle or a good of a tariff provision listed in Schedule IV that is subject to a regional value-content requirement and is for use as original equipment in the production of a light-duty vehicle.

Light-duty vehicle is defined in Section 2 of the NAFTA Rules of Origin Regulations as:

a motor vehicle provided for in any of tariff items 8702.10.60 and 8702.10.60 (vehicles for the transport of 15 or fewer persons) and subheadings 8703.21 through 8703.90, 8704.21 and 8704.31.

Schedule IV (LIST OF TARIFF PROVISIONS FOR THE PURPOSES OF SECTION 9 OF THE APPENDIX) of the NAFTA Rules of Origin Regulations lists subheading 8544.30, HTSUS. Therefore, the wire harnesses meet the definition of a light duty automotive good pursuant to Section 2 of the NAFTA Rules of Origin Regulations. To calculate the regional value content of the wire harnesses under the net cost method, we must calculate the value of the non-originating materials. Pursuant to section 9(1) of the NAFTA Rules of Origin Regulations, the value of the non-originating materials is the sum of the values of the non-originating materials that are traced materials incorporated into the wire harnesses. In this situation the non-originating material is the insulated copper wire. We note that under the facts there may also be other non-originating materials. We will assume that these non-originating materials are not "traced materials." The insulated copper wire is not listed in schedule IV of the NAFTA Rules of Origin Regulations and, therefore, is not a traced material. Thus, the value of the insulated copper wire is not included in the value of the non-originating goods when calculating the regional value content but it is included in the net cost of the wire harnesses.

In this situation, the value of the non-originating materials is 0 and, therefore, the regional value content is 100%. The wire harnesses in this situation meet the requirements of General Note 12(t)/85.147(B), HTSUS, and are considered "originating goods" pursuant to General Note 12(b)(ii), HTSUS.

Fact Situation #4

In this situation, insulated copper wire imported in the NAFTA territory is valued over 7 percent and is classifiable under subheading 8544.49.00, HTSUS. Non-insulated copper wire imported into the NAFTA territory is valued over 7 percent and is classifiable under heading 7408, HTSUS. We are asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are "originating goods". Since the insu-

lated copper wire and non-insulated copper wire are classified within subheadings 8544.11 through 8544.60 and heading 7408, a change in tariff classification does not occur pursuant to General Note 12(t)/85.147(A), HTSUS.

We are of the opinion that the wire harnesses do meet the tariff shift requirement of General Note 12 (t)/85.147(B), HTSUS. As stated previously, the proper interpretation of the tariff shift requirement of General Note 12(t)/85.147(B), HTSUS, is that the non-originating materials must change to subheadings 8544.11 through 8544.60 from any other subheading within that group or headings 7408, 7413, 7605 or 7614, whether or not there is also a change from any other subheading, provided the regional value content requirement is met. The insulated copper wire which is classified under subheading 8544.49.00, HTSUS, meets the tariff shift requirement and the imported non-insulated copper wire, which is classifiable under heading 7408, HTSUS, also meets the tariff shift requirement. The tariff shift requirement of General Note 12(t)/85.147(B), HTSUS, has been met.

However, the wire harnesses must also meet the regional value content requirement, i.e., "(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used."

Schedule IV (LIST OF TARIFF PROVISIONS FOR THE PURPOSES OF SECTION 9 OF THE APPENDIX) of the NAFTA Rules of Origin Regulations lists subheading 8544.30, HTSUS. Therefore, the wire harnesses met the definition of a light duty automotive good pursuant to Section 2 of the NAFTA Rules of Origin Regulations. To calculate the regional value content of the wire harnesses under the net cost method, we must calculate the value of the non-originating materials. Pursuant to section 9(1) of the NAFTA Rules of Origin Regulations, the value of the non-originating materials is the sum of the values of the non-originating materials that are traced materials incorporated into the wire harnesses. In this situation the non-originating materials are the insulated copper wire and the non-insulated copper wire. We note that under the facts there may also be other non-originating materials. We will assume that these non-originating materials are not "traced materials." The insulated copper wire and non-insulated copper wire are not listed in schedule IV of the NAFTA Rules of Origin Regulations and, therefore, are not traced materials. Thus, the value of the insulated copper wire and the non-insulated copper wire are not included in the value of the non-originating goods when calculating the regional value content but they are included in the net cost of the wire harnesses.

In this situation, the value of the non-originating materials is 0 and, therefore, the regional value content is 100%. The wire harnesses in this situation meet the requirements of General Note 12(t)/85.147(B), HTSUS, and are considered "originating goods" pursuant to General Note 12(b)(ii), HTSUS.

Fact Situation #5

We note that General Note 12 (b) (ii) (A), HTSUS, states for a good to be considered an originating good "each of the non-originating materials used in the production of such goods undergoes a change in tariff classification . . . (emphasis added)." In this situation the non-originating materials are the imported insulated copper wire and the imported copper rod. Each of these non-originating components imported into the NAFTA territory must meet the tariff shift requirement of either General Note 12(t)/85.147(A) or 85.147(B), HTSUS. The imported copper rod, which is classifiable under

subheading 7407.10.50, HTSUS, meets the tariff shift requirement of (A) because it is classifiable outside of subheadings 8544.11 through 8544.60 or headings 7408, 7413, 7605 or 7614. As stated previously, the imported insulated copper wire does not meet this tariff shift requirement because it is classifiable under subheading 8544.49.00, HTSUS. The wire harnesses in this situation do not meet the tariff shift requirement of General Note 12 (t)/85.147 (A) , HTSUS.

We are of the opinion that the wire harnesses do meet the tariff shift requirement of General Note 12(t)/85.147(B), HTSUS. As stated previously, the proper interpretation of the tariff shift requirement of General Note 12(t)/85.147(B), HTSUS, is that the non-originating materials must change to subheadings 8544.11 through 8544.60 from any other subheading within that group or headings 7408, 7413, 7605 or 7614, whether or not there is also a change from any other subheading, provided the regional value content requirement is met. The insulated copper wire which is classified under subheading 8544.49.00, HTSUS, meets the tariff shift requirement and the copper rod, which is classifiable under heading 7407.10.50, HTSUS, also meets the tariff shift requirement. The tariff shift requirement of General Note 12(t) /85.147 (B) , HTSUS, has been met.

However, the wire harnesses must also meet the regional value content requirement, i.e., “(a) 60 percent where the transaction value method is used, or (b) 50 percent where the net cost method is used.”

Schedule IV (LIST OF TARIFF PROVISIONS FOR THE PURPOSES OF SECTION 9 OF THE APPENDIX) of the NAFTA Rules of Origin Regulations lists subheading 8544.30, HTSUS. Therefore, the wire harnesses meet the definition of a light duty automotive good pursuant to Section 2 of the NAFTA Rules of Origin Regulations. To calculate the regional value content of the wire harnesses under the net cost method, we must calculate the value of the non-originating materials. Pursuant to section 9(1) of the NAFTA Rules of Origin Regulations, the value of the non-originating materials is the sum of the values of the non-originating materials that are traced materials incorporated into the wire harnesses. In this situation the non-originating materials are the insulated copper wire and the copper rod. We note that under the facts there may also be other non-originating materials. We will assume that these non-originating materials are not “traced materials.” The insulated copper wire and copper rod are not listed in schedule IV of the NAFTA Rules of Origin Regulations and, therefore, are not traced materials. Thus, the value of the insulated copper wire and the copper rod are not included in the value of the non-originating goods when calculating the regional value content but they are included in the net cost of the wire harnesses.

In this situation, the value of the non-originating materials is 0 and, therefore, the regional value content is 100%. The wire harnesses in this situation meet the requirements of General Note 12(t)/85.147(B), HTSUS, and are considered “originating goods pursuant to General Note 12(b)(ii), HTSUS.

Fact Situation #6

The same legal principles applied in Fact Situation #5, apply to the wire harnesses in this situation. In this case, the facts call for NAFTA origin ore or NAFTA origin copper rod which is processed into copper wire which is processed into insulated copper wire which is manufactured into the wire harnesses. Since the ore or copper rod are “originating goods”, they are not

factored into the tariff shift requirements. As stated previously, General Note 12(b) (ii) (A), HTSUS, states that “each of the non-originating materials used in the production of such goods undergoes a change in tariff classification . . . (emphasis added).” The only non-originating good is the imported insulated copper wire which we have consistently stated does not meet the tariff shift requirements of General Note 12(t)/85.147(A), HTSUS. However, as stated in Fact Situation #3, the wire harnesses manufactured from non-originating copper wire do meet the requirements of General Note 12(t)/ 85.147(B), HTSUS. Therefore, the wire harnesses, in this case, are considered “originating goods” pursuant to General Note 12(b)(ii), HTSUS.

HOLDING:

Based on the presented facts and the “originating” and value assumptions set forth above, the wire harnesses in each Fact Situation are found to be “originating goods” pursuant to the rules of origin in General Note 12(b), HTSUS, provided all other applicable requirements are met.

JOHN DURANT,
Director,
Commercial Rulings Division.

[ATTACHMENT C]

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

HQ 968072
CLA-2 RR:CTF:TCM 968072 HkP
CATEGORY: Classification
TARIFF NO.: 8544.30.00

MR. DONALD PFEIFFER
PRETTL ELECTRIC CORPORATION
1721 White Horse Road
Greenville, South Carolina 29605

RE: Wire Harnesses; insulated wire from Germany; NAFTA; modification of HQ 546674

DEAR MR. PFEIFFER:

This is in reference to Headquarters Ruling Letter (HQ) 546674, dated April 16, 1998, regarding the applicability of the North American Free Trade Agreement (“NAFTA”) to certain wire harnesses. We have reconsidered HQ 546674 and have determined that portions of the tariff shift analysis conducted were not correct.

FACTS:

In HQ 546674, the U.S. Customs Service, now U.S. Customs and Border Protection (“CBP”), was asked to consider the applicability of the NAFTA in certain situations to wire harnesses produced in Mexico of various originating and non-originating materials and exported to the United States. The harnesses were classified under subheading 8544.30.00, Harmonized Tariff

Schedule of the United States (“HTSUS”), which provides for “Insulated . . . wire, cable . . . and other insulated electric conductors, whether or not fitted with connectors: . . . : Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships“, and were held to be “originating goods” of Mexico, subject to preferential treatment under the NAFTA.

In one of the situations presented for our consideration, all of the non-originating materials (silicon rubber tubes plastic grommets, rubber o-ring seals and connector terminals) for the wire harnesses, except for insulated wire from Germany, were classified outside of subheadings 8544.11 through 8544.60, or headings 7408, 7423, 7605, or 7614, HTSUS. CBP ruled that a change in the tariff classification of the silicon rubber tubes, plastic grommets, rubber o-ring seals, and connector terminals occurred pursuant to General Note (“GN”) 12(t)/85.147(A), HTSUS. With regard to the non-originating insulated wire from Germany, CBP ruled that the tariff shift requirement of GN 12(t)/85.147(B), HTSUS, had been met because “[t]he proper interpretation of the tariff shift requirement of General Note 12(t)/85.147(B), HTSUS, is that the non-originating materials must change to subheadings 8544.11 through 8544.60, from any other subheading within that group or headings 7408, 7413, 7605, or 7614, whether or not there is a change from any other subheading, provided the regional value content requirement is met.” Upon review, CBP has determined that the tariff shift analysis performed pursuant to GN 12(t)/85.147(B), HTSUS, with respect to insulated wire from Germany, was erroneous. This ruling letter sets forth the correct analysis.

ISSUE:

Are the wire harnesses considered to be “originating goods” pursuant to the rules of origin in General Note 12(b)(ii), HTSUS?

LAW AND ANALYSIS:

General Note 12 of the HTSUS incorporates Article 401, North American Free Trade Agreement, as implemented by section 207 of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (December 8, 1993) and the interim amendments to the CBP Regulations, published as T.D. 94–4 (59 Fed. Reg. 109, January 3, 1994), into the HTSUS. Note 12(b) provides in relevant part:

For the purposes of this note, goods imported into the customs territory of the United States are eligible for the tariff treatment and quantitative limitations set forth in the tariff schedule as “goods originating in the territory of a NAFTA party” only if –

ii) they have been transformed in the territory of Canada, Mexico and/or the United States so that--

A) except as provided in subdivision (f) of this note, each of the non-originating materials used in the production of such goods undergoes a change in tariff classification described in subdivision (r), (s) and (t) of this note or the rules set forth therein, or

(B) the goods otherwise satisfy the applicable requirements of subdivision (r), (s) and (t) where no change in tariff classification is required, and the goods satisfy all other requirements of this note[.]

Originating goods status is conferred on wire harnesses classified under subheading 8544.30.00, HTSUS, by GN 12(t)/85.147, HTSUS, which allows:

- (A) A change to subheadings 8544.11 through 8544.60 from any subheading outside that group, except from headings 7408, 7413, 7605 or 7614; or
- (B) A change to subheadings 8544.11 through 8544.60 from headings 7408, 7413, 7605 or 7614, whether or not there is also a change from any other subheading, including another subheading within subheadings 8544.11 through 8544.60, provided there is also a regional value content of not less than:
 - (1) 60 percent where the transaction value method is used, or
 - (2) 50 percent where the net cost method is used.

We note that goods must meet the requirements of either GN 12(t)/85.147(A) or (B), HTSUS, in order to be treated as an “originating good”; they do not have to meet both rules.

In your Advance Ruling Request of February 19, 1997, you state that, “when the component wire is non-originating and the Tariff Change rule can not [sic] be met . . . we can make use of the Regional Value Content.”

We disagree. It is our opinion that the rule to be met, GN 12(t)/85.147(B), HTSUS, requires that in order for a transformation/tariff shift to occur there **must** be a change in the tariff classification of a good to subheadings 8544.11 through 8544.60 from headings 7408, 7413, 7605 or 7614, HTSUS, **and** the good must also have a regional value content of not less than 60% where the transaction value method is used, or 50% where the net cost method is used. A change to subheadings 8544.11 through 8544.60, HTSUS, from any other subheading, including another subheading within subheadings 8544.11 through 8544.60, HTSUS, may also occur but the good only qualifies where the previously described tariff shift occurs and the regional content test is met.

Applying the requirements of GN 12(t)/85.147(B), HTSUS, to the insulated wire from Germany, classified in subheading 8544.59.40, HTSUS, we are of the opinion that the change in tariff classification that occurs would not fulfill the requirements for conferring origin because the imported wire was not classified within headings 7408, 7413, 7605, or 7614, HTSUS. Since the required tariff shift for the German wire does not take place, we do not consider the wire harnesses to have originated in a NAFTA territory under the provisions of GN 12(t)/85.147(B), HTSUS, even though regional value content requirements may be met.

Next, we consider whether, despite not meeting the requirements of GN 12(t)/85.147(B), HTSUS, the wire harnesses may be considered to be originating goods under the *de minimis* exception to GN 12(b)(ii)(A), HTSUS.

General Note 12(f)(i), HTSUS, provides:

Except as provided in subdivisions (f)(iii) through (vi), inclusive, a good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in subdivision (t) of this note is not more than 7 percent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value is unacceptable under section 402(b) of the Tariff Act of 1930, as amended, the

value of all such non-originating materials is not more than 7 percent of the total cost of the good, provided that –

- (A) if the good is subject to a regional value-content requirement, the value of such non-originating materials shall be taken into account in calculating the regional value content of the good; and
- (B) the good satisfies all other applicable requirements of this note.

Section 5 of the NAFTA Rules of Origin Regulations, Appendix to Part 181, Customs Regulations (19 CFR Appendix to Part 181), further describes the *de minimis* rule:

(1) Except as otherwise provided in subsection (4), a good shall be considered to originate in the territory of a NAFTA country where the value of the non-originating materials that are used in the production of the good and that do not undergo an applicable change in tariff classification as a result of production occurring entirely in the territory of one or more of the NAFTA countries is not more than seven percent

(a) of the transaction value of the good determined in accordance with Schedule II with respect to the transaction in which the producer of the good sold the good, adjusted to an F.O.B. basis, or

(b) of the total cost of the good, where there is no transaction value for the good under section 2(1) of Schedule III or the transaction value of the good is unacceptable under section 2(2) of that Schedule,

provided that,

c) if, under the rule in which the applicable change in tariff classification is specified, the good is also subject to a regional value-content requirement, the value of those non-originating materials shall be taken into account in calculating the regional value content of the good in accordance with the method set out for that good, and

(d) the good satisfies all other applicable requirements of this appendix.

You provided us with two different costs for the wire from Germany. In Material Description/Evaluation P/N 6 002 LGO 021 and 024, you stated that the total cost of the wire from Germany was \$0.33 and that the total cost for the wire harnesses was \$1.23 each. In Material Description/Evaluation P/N 6 002 LGO 020 and 023, you stated that the total cost of the wire from Germany was \$0.20 and that the total cost of the wire harnesses was \$1.06 each. In each of these situations, the German wire constitutes more than 7% of the total cost of each wire harness ($\$0.33/\$1.23 \times 100 = 26.89\%$; $\$0.20/\$1.06 \times 100 = 18.86\%$). Consequently, the harnesses would be ineligible for the *de minimis* allowance of GN 12(f), HTSUS, and Section 5(1) of the NAFTA Rules of Origin Regulations and would not be considered to be originating goods under the NAFTA.

HOLDING:

By application of GN 12(t)/85.147 and GN 12(f), HTSUS, the non-originating insulated wire is not transformed pursuant to the requirements of GN 12(b)(ii)(A), HTSUS. The wire harnesses, therefore, are ineligible for the preferential tariff treatment accorded to goods originating in the territory of a NAFTA party, in this case Mexico.

EFFECT ON OTHER RULINGS:

HQ 546674, dated April 16, 1998, is modified with respect to the tariff shift analysis performed pursuant to GN 12(t)/85.147(B), HTSUS, concerning insulated wire from Germany. The tariff shift analysis performed pursuant to GN 12(t)/85.147(A), with respect to the other items described in HQ 546674, is unchanged.

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


[ATTACHMENT D]

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

HQ 968074
CLA-2 RR:CTF:TCM 968074 HkP
CATEGORY: Classification
TARIFF NO.: 8544.30.00

ELIZABETH J. VANN, ESQ.
KEMP, SMITH, DUNCAN & HAMMOND, P.C.
P.O. Box 2800
El Paso, Texas 79901-1441

RE: Wire Harnesses; insulated copper wire; plastic seals; copper rod;
NAFTA; modification of HQ 957188

DEAR MS. VANN:

This is in reference to Headquarters Ruling Letter (HQ) 957188, dated February 9, 1995, regarding the classification of wire harnesses, copper rod, insulated copper wire, and plastic seals under the Harmonized Tariff Schedule of the United States (“HTSUS”). We have reconsidered HQ 957188 and have determined that the tariff shift analysis conducted in several of the “fact situations” is not correct.

FACTS:

In HQ 957188, the U.S. Customs Service, now U.S. Customs and Border Protection (“CBP”) was asked by United Technologies Automotive, Inc. (“UTA”) to consider the applicability of the North American Free Trade Agreement (“NAFTA”) in certain situations (set forth below) to wire harnesses produced in Mexico of various originating and non-originating materials and exported to the United States. The harnesses were classified under subheading 8544.30.00, HTSUS, which provides for “Insulated . . . wire, cable . . . and other insulated electric conductors, whether or not fitted with connectors: . . . : Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships.”

In several of the situations presented for our consideration, CBP based its conclusions on an erroneous interpretation of tariff shift requirements under General Note 12(t)/85.147(B), stating that, “[t]he proper interpretation of

the tariff shift requirement of General Note 12(t)/85.147(B), HTSUS, is that the non-originating materials must change to subheadings 8544.11 through 8544.60, from any other subheading within that group or headings 7408, 7413, 7605, or 7614, whether or not there is a change from any other subheading, provided the regional value content requirement is met." This ruling letter sets forth the correct analysis.

The affected Fact Situations are as follows:

Fact Situation 2

Insulated copper wire classifiable under subheading 8544.49.00, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory. The insulated copper wire is then purchased by UTA and manufactured in Mexico into wire harnesses. The wire harnesses will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

CBP was asked to assume that the insulated copper wire, imported into the NAFTA territory is not an "originating good." Additionally, we were asked to assume that all other components of the wire harnesses, except for certain plastic seals classifiable under subheading 4016.93.00, HTSUS, meet the tariff shift requirements and/or are "originating goods".

We were also asked to assume that the value of the insulated copper wire which is imported into the NAFTA territory constitutes 7% of the total cost of each wire harness and that the value of the non-originating plastic seals which are incorporated into the wire harness constitutes 2% of the total cost of the wire harness, where there is no transaction value for the good under section 2(1) of Schedule III or the transaction value of the good is unacceptable under section 2(2) of Schedule III.

Fact Situation 3

Insulated copper wire classifiable under subheading 8544.49.00, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory. The insulated copper wire is then purchased by UTA and manufactured in Mexico into wire harnesses. The wire harnesses will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

CBP was asked to assume that the insulated copper wire, imported into the NAFTA territory is not an "originating good." Additionally, we were asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are "originating goods".

We were also asked to assume that the value of the non-originating wire insulated copper wire exceeds the *de minimis* amount found in General Note 12(f), HTSUS.

Fact Situation 4

Insulated copper wire classifiable under subheading 8544.49.00, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory. Non-insulated copper wire classifiable under heading 7408, HTSUS, is imported into the NAFTA territory from outside of the NAFTA territory. The non-insulated copper wire is insulated in the NAFTA territory to form insulated copper wire classifiable under subheading 8544.49.00, HTSUS. The imported insulated copper wire and the NAFTA-manufactured insulated copper wire are then purchased by

UTA and manufactured in Mexico into wire harnesses. The wire harnesses, which include both imported insulated copper wire and NAFTA-manufactured insulated copper wire, will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

CBP was asked to assume that the insulated copper wire and the non-insulated copper wire, imported into the NAFTA territory are not “originating goods.” Additionally, we were asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are “originating goods”.

We were also asked to assume that the value of the non-originating insulated copper wire and the non-insulated copper wire exceeds the *de minimis* amount found in General Note 12(f), HTSUS.

Fact Situation 5

Insulated copper wire classifiable under subheading 8544.49.00, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory. Copper rod classifiable under subheading 7407.10.50, HTSUS, is imported into the NAFTA territory from outside of the NAFTA territory. The copper rod is extruded in the NAFTA territory to form copper wire and then insulated to form insulated copper wire classifiable under subheading 8544.49.00, HTSUS. The imported insulated copper wire and the NAFTA manufactured insulated copper wire are then purchased by UTA and manufactured in Mexico into wire harnesses. The wire harnesses which include both imported insulated copper wire and NAFTA manufactured insulated copper wire, will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

CBP was asked to assume that the insulated copper wire and the copper rod, imported into the NAFTA territory are not “originating goods.” Additionally, we were asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are “originating goods”.

We were also asked to assume that the value of the non-originating insulated copper wire exceeds the *de minimis* amount found in General Note 12(f), HTSUS.

Fact Situation 6

Insulated copper wire classifiable under subheading 8544.49.00, HTSUS, is imported into the NAFTA territory from outside the NAFTA territory. Non-insulated copper wire classifiable under heading 7408, HTSUS, is manufactured in the NAFTA territory from NAFTA origin ore and/or NAFTA origin copper rod. The imported insulated copper wire and the NAFTA manufactured non-insulated copper wire are then purchased by UTA and manufactured in Mexico into wire harnesses. The wire harnesses which include both imported insulated copper wire and NAFTA manufactured non-insulated copper wire, will then be imported into the U.S. by UTA under subheading 8544.30.00, HTSUS.

CBP was asked to assume that the insulated copper wire imported into the NAFTA territory is not an “originating good.” Additionally, we were asked to assume that all other components of the wire harnesses meet the tariff shift requirements and/or are “originating goods”.

We were also asked to assume that the value of the non-originating insulated copper wire exceeds the *de minimis* amount found in General Note 12(f), HTSUS.

With regard to the above fact situations, CBP was asked to disregard the regional value content requirement. Accordingly, regional value content will not be addressed in this ruling.

We note that the classifications mentioned in this ruling were provided by UTA and that CBP does not confirm their accuracy.

ISSUE:

Are the wire harnesses considered to be “originating goods” pursuant to the rules of origin in General Note 12(b)(ii), HTSUS?

LAW AND ANALYSIS:

General Note 12 of the HTSUS incorporates Article 401, North American Free Trade Agreement, as implemented by section 207 of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (December 8, 1993) and the interim amendments to the CBP Regulations, published as T.D. 94–4 (59 Fed. Reg. 109, January 3, 1994), into the HTSUS. Note 12(b) provides in relevant part:

For the purposes of this note, goods imported into the customs territory of the United States are eligible for the tariff treatment and quantitative limitations set forth in the tariff schedule as “goods originating in the territory of a NAFTA party” only if –

...

ii) they have been transformed in the territory of Canada, Mexico and/or the United States so that--

A) except as provided in subdivision (f) of this note, each of the non-originating materials used in the production of such goods undergoes a change in tariff classification described in subdivision (r), (s) and (t) of this note or the rules set forth therein, or

(B) the goods otherwise satisfy the applicable requirements of subdivision (r), (s) and (t) where no change in tariff classification is required, and the goods satisfy all other requirements of this note [.]

Originating goods status is conferred on wire harnesses classified under subheading 8544.30.00, HTSUS, by General Note 12(t)/85.147, HTSUS, which allows:

(A) A change to subheadings 8544.11 through 8544.60 from any subheading outside that group, except from headings 7408, 7413, 7605 or 7614; or

(B) A change to subheadings 8544.11 through 8544.60 from headings 7408, 7413, 7605 or 7614, whether or not there is also a change from any other subheading, including another subheading within subheadings 8544.11 through 8544.60, provided there is also a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

We note that goods must meet the requirements of either GN 12(t)/85.147(A), HTSUS, or GN 12(t)/85.147(B), HTSUS, to qualify as an “originating good”; they do not have to meet both tests.

General Note 12(t)/85.147(B), HTSUS, requires that, in order for a transformation/tariff shift to occur there must be a change in the tariff classification of a good to subheadings 8544.11 through 8544.60 from heading 7408, 7413, 7605 or 7614, HTSUS, and the good must also have a regional value content of not less than 60% where the transaction value method is used, or 50% where the net cost method is used. A change to subheadings 8544.11 through 8544.60, HTSUS, from any other subheading, including another subheading within subheadings 8544.11 through 8544.60, HTSUS, may only take place if there is also a change in classification of the good from heading 7408, 7413, 7605 or 7614, HTSUS.

General Note 12(f), HTSUS, provides:

- (i) Except as provided in subdivisions (f)(iii) through (vi), inclusive, a good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in subdivision (t) of this note is not more than 7 percent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value is unacceptable under section 402(b) of the Tariff Act of 1930, as amended, the value of all such non-originating materials is not more than 7 percent of the total cost of the good, provided that--
 - (A) if the good is subject to a regional value-content requirement, the value of such non-originating materials shall be taken into account in calculating the regional value content of the good; and
 - (B) the good satisfies all other applicable requirements of this note.

Section 5 of the NAFTA Rules of Origin Regulations, Appendix to Part 181, Customs Regulations (19 C.F.R. Appendix to Part 181), further describes the de minimis rule:

- (1) Except as otherwise provided in subsection (4), a good shall be considered to originate in the territory of a NAFTA country where the value of the non-originating materials that are used in the production of the good and that do not undergo an applicable change in tariff classification as a result of production occurring entirely in the territory of one or more of the NAFTA countries is not more than seven percent
 - (a) of the transaction value of the good determined in accordance with Schedule II with respect to the transaction in which the producer of the good sold the good, adjusted to an F.O.B. basis, or
 - (b) of the total cost of the good, where there is no transaction value for the good under section 2(1) of Schedule III or the transaction value of the good is unacceptable under section 2(2) of that Schedule, provided that,
 - (c) if, under the rule in which the applicable change in tariff classification is specified, the good is also subject to a regional value-content requirement, the value of those non-originating materials shall be

taken into account in calculating the regional value content of the good in accordance with the method set out for that good, and

(d) the good satisfies all other applicable requirements of this appendix.

Applying these laws to the fact situations, our conclusions are as follows:

With regard to Fact Situation 2, as an initial matter, we note that subheading 4016.93.00, HTSUS, is a provision for seals of vulcanized *rubber*, not plastic. However, for the purposes of this ruling only, we will proceed on the fiction that the subject plastic seals are classified in subheading 4016.93.00, HTSUS.

CBP was asked in this situation to assume that, “all other components of the wire harnesses, except for certain plastic seals classifiable under subheading 4016.93.00, HTSUS, meet the tariff shift requirements.” (Emphasis added.) We note that this assumption was not applied in the original ruling. Therefore, while we confirm that the conclusion reached in HQ 957188 was technically correct, we find that it was also incomplete.

We were also asked to assume that the value of the imported insulated copper wire was 7%, and the value of the non-originating plastic seals was 2%, of the total cost of each wire harness, where there is no transaction value for the good under section 2(1) of Schedule III, or the transaction value of the good is unacceptable under section 2(2) of Schedule III.

Applying GN 12(f), HTSUS, and Section 5(1) of the NAFTA Rules of Origin Regulations to the assumptions CBP was originally asked to make, we find that the wire harnesses are not considered “originating goods” under the *de minimis* exception. This is because when the assumption that the plastic seals do not undergo a change in tariff classification is applied, the total value of the non-originating materials is more than 7% of the transaction value of the good.

With regard to Fact Situation 3, a change in tariff classification of the insulated copper wire classified in subheading 8544.49.00, HTSUS, does not take place under GN 12(t)/85.147(B), HSTUS, because the requisite shift does not take place from heading 7408, 7413, 7605 or 7614, HTSUS. Further, because we were asked to assume that the value of the non-originating wire exceeds the *de minimis* amount found in GN 12(f), HTSUS, and Section 5(1) of the NAFTA Rules of Origin Regulations, we cannot consider the wire harnesses to be originating goods under NAFTA.

With regard to Fact Situation 4, a change in tariff classification of the insulated copper wire classified in subheading 8544.49.00, HTSUS, does not take place under GN 12(t)/85.147(B), HTSUS, because the requisite shift does not take place from heading 7408, 7413, 7605 or 7614, HTSUS. Further, because we were asked to assume that the value of the non-originating wire exceeds the *de minimis* amount found in GN 12(f), HTSUS, and Section 5(1) of the NAFTA Rules of Origin Regulations, we cannot consider the wire harnesses to be originating goods under NAFTA.

With regard to Fact Situation 5, a change in tariff classification of the insulated copper wire classified in subheading 8544.49.00, HTSUS, does not take place under GN 12(t)/85.147(B), HTSUS, because the requisite shift does not take place from heading 7408, 7413, 7605 or 7614, HTSUS. Further, because we were asked to assume that the value of the non-originating wire exceeds the *de minimis* amount found in GN 12(f), HTSUS, and Section 5(1) of the NAFTA Rules of Origin Regulations, we cannot consider the wire

harnesses to be originating goods under NAFTA. In addition, we take this opportunity to clarify that, in this situation, the copper rod meets the tariff shift requirements of GN 12(t)/85.147(A), but not (B), HTSUS.

With regard to Fact Situation 6, a change in tariff classification of the insulated copper wire classified in subheading 8544.49.00, HTSUS, does not take place under GN 12(t)/85.147(B), HTSUS, because the requisite shift does not take place from heading 7408, 7413, 7605 or 7614, HTSUS. Further, because we were asked to assume that the value of the non-originating wire exceeds the *de minimis* amount found in GN 12(f), HTSUS, and Section 5(1) of the NAFTA Rules of Origin Regulations, we cannot consider the wire harnesses to be originating goods under NAFTA.

HOLDING:

By application of GN 12(t)/85.147 and GN 12(f), HTSUS, the non-originating materials described in the situations above have not been transformed pursuant to the requirements of GN 12(b)(ii)(A), HTSUS. Therefore, in these situations, the wire harnesses produced in Mexico for export to the United States are not eligible for the tariff treatment accorded goods originating in the territory of a NAFTA party, in this case Mexico.

EFFECT ON OTHER RULINGS:

HQ 957188, dated February 1, 1995, is modified with respect to the tariff shift analysis performed pursuant to GN 12(t)/85.147(B), HTSUS, in Fact Situations 2 through 6. The tariff shift analysis performed pursuant to GN 12(t)/85.147(A), HTSUS, including Fact Situation 1, is unchanged.

MYLES B. HARMON,

Director;

Commercial and Trade Facilitation Division.