

# Bureau of Customs and Border Protection

## *General Notices*

### **RE-ACCREDITATION AND RE-APPROVAL OF LABORATORY SERVICE, INC., AS A COMMERCIAL GAUGER AND LABORATORY**

**[CBP Dec. 07-03]**

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

**ACTION:** Notice of re-approval of Laboratory Service, Inc., of Seabrook, Texas, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Laboratory Service, Inc., 11731 Port Road, Seabrook, Texas 77586, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [http://www.cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/org\\_and\\_operations.xml](http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml).

**DATES:** The re-approval of Laboratory Service, Inc., as a commercial gauger and laboratory became effective on February 18, 2005. The next triennial inspection date will be scheduled for February 2008.

**FOR FURTHER INFORMATION CONTACT:** Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: February 9, 2007

IRA S. REESE,  
*Executive Director,  
Laboratories and Scientific Services.*

[Published in the Federal Register, February 15, 2007 (72 FR 7446)]

**RE-ACCREDITATION AND RE-APPROVAL OF INTERTEK  
TESTING SERVICES AS A COMMERCIAL GAUGER AND  
LABORATORY**

**[CBP Dec. 07-04]**

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

**ACTION:** Notice of re-approval of Intertek Testing Service/Caleb Brett of Tampa, Florida, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Intertek Testing Service/Caleb Brett, 4951A East Adamo Drive, Suite 130, Tampa, Florida 33605, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [http://www.cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/org\\_and\\_operations.xml](http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml).

**DATES:** The re-approval of Intertek Testing Service/Caleb Brett as a commercial gauger and laboratory became effective on May 24, 2006. The next triennial inspection date will be scheduled for May 2009.

**FOR FURTHER INFORMATION CONTACT:** Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: February 9, 2007

IRA S. REESE,  
*Executive Director,  
Laboratories and Scientific Services.*

[Published in the Federal Register, February 15, 2007 (72 FR 7446)]

**Automated Commercial Environment (ACE): National  
Customs Automation Program Test Of Automated Truck  
Manifest for Truck Carrier Accounts; Deployment Schedule**

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

**ACTION:** General notice.

**SUMMARY:** The Bureau of Customs and Border Protection, in conjunction with the Department of Transportation, Federal Motor Carrier Safety Administration, is currently conducting a National Customs Automation Program (NCAP) test concerning the transmission of automated truck manifest data. This document announces the next group, or cluster, of ports to be deployed for this test.

**DATES:** The ports identified in this notice, in the states of Idaho and Montana, are expected to be fully deployed for testing by February 22, 2007. Comments concerning this notice and all aspects of the announced test may be submitted at any time during the test period.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Swanson via e-mail at [james.d.swanson@dhs.gov](mailto:james.d.swanson@dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The National Customs Automation Program (NCAP) test concerning the transmission of automated truck manifest data for truck carrier accounts was announced in a notice published in the **Federal Register** (69 FR 55167) on September 13, 2004. That notice stated that the test of the Automated Truck Manifest would be conducted in a phased approach, with primary deployment scheduled for no earlier than November 29, 2004.

A series of **Federal Register** notices have announced the implementation of the test, beginning with a notice published on May 31, 2005 (70 FR 30964). As described in that document, the deployment sites for the test have been phased in as clusters. The ports identified belonging to the first cluster were announced in the May 31, 2005 notice. Additional clusters were announced in subsequent notices published in the **Federal Register** including: 70 FR 43892

(July 29, 2005); 70 FR 60096 (October 14, 2005); 71 FR 3875 (January 24, 2006); 71 FR 23941 (April 25, 2006); 71 FR 42103 (July 25, 2006) and 71 FR 77404 (December 26, 2006).

### **New Cluster**

Through this notice, CBP announces that the next cluster of ports to be brought up for purposes of deployment of the test, to be fully deployed by February 22, 2007, will be the following specified ports in the States of Idaho (ID) and Montana (MT): Eastport, ID; Porthill, ID; Roosville, MT; Whitlash, MT; Del Bonita, MT; Wildhorse, MT; Sweetgrass, MT; Piegan, MT; Willow Creek, MT; Turner, MT; Morgan, MT; Scobey, MT; Opheim, MT; Raymond, MT; and Whitetail, MT. This deployment is for purposes of the test of the transmission of automated truck manifest data only; the Automated Commercial Environment (ACE) Truck Manifest System is not yet the mandated transmission system for these ports. The ACE Truck Manifest System will become the mandatory transmission system in these ports only after publication in the **Federal Register** of 90 days notice, as explained by CBP in the **Federal Register** notice published on October 27, 2006 (71 FR 62922).

### **Previous NCAP Notices Not Concerning Deployment Schedules**

On Monday, March 21, 2005, a notice was published in the **Federal Register** (70 FR 13514) announcing a modification to the NCAP test to clarify that all relevant data elements are required to be submitted in the automated truck manifest submission. That notice did not announce any change to the deployment schedule and is not affected by publication of this notice. All requirements and aspects of the test, as set forth in the September 13, 2004 notice, as modified by the March 21, 2005 notice, continue to be applicable.

Dated: February 5, 2007

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

[Published in the Federal Register, February 15, 2007 (72 FR 7058)]



**PROPOSED COLLECTION; COMMENT REQUEST****Accreditation of Commercial Testing Laboratories;  
Approval of Commercial Gaugers**

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

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

**DATES:** Written comments should be received on or before April 16, 2007 to be assured of consideration.

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

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

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers

**OMB Number:** 1651-0053

**Form Number:** None

**Abstract:** The Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers are used by individuals or businesses desiring CBP approval to measure bulk products or analyze importations. This recognition is required of businesses wishing to perform such work on imported merchandise.

**Title:** Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers

**OMB Number:** 1651-0053

**Form Number:** None

**Abstract:** The Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers are used by individuals or businesses desiring CBP approval to

**Estimated Number of Respondents:** 250

**Estimated Time Per Respondent:** 1.8 hours

**Estimated Total Annual Burden Hours:** 450

**Estimated Total Annualized Cost on the Public:** N/A

Dated: February 8, 2007

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

[Published in the Federal Register, February 15, 2007 (72 FR 7445)]

## **PROPOSED COLLECTION; COMMENT REQUEST**

### **Distribution of Continued Dumping and Subsidy Offset**

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

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Procedures. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before April 16, 2007 to be assured of consideration.

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

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

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

**OMB Number:** 1651-0086

**Form Number:** N/A

**Abstract:** The collection of information is required to implement the duty preference provisions of the Continued Dumping and Subsidy Offset Act of 2000, by prescribing the administrative procedures under which anti-dumping and countervailing duties are assessed on imported products.

**Current Actions:** This submission is being submitted to extend the expiration date.

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

**Affected Public:** Businesses

**Estimated Number of Respondents:** 2000

**Estimated Time Per Respondent:** 1 hour

**Estimated Total Annual Burden Hours:** 2000

**Estimated Total Annualized Cost on the Public:** N/A

Dated: February 8, 2007

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

[Published in the Federal Register, February 15, 2007 (72 FR 7445)]

**NOTICE OF ISSUANCE OF FINAL DETERMINATION  
CONCERNING BOLT CONTAINER SEALS  
AND CABLE SEALS**

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

**ACTION:** Notice of final determination.

**SUMMARY:** This document provides notice that the Bureau of Customs and Border Protection (CBP) has issued a final determination concerning the country of origin of certain bolt container seals and cable seals to be offered to the United States Government under an undesignated government procurement contract. For each of the two products, two different manufacturing scenarios were presented. Based upon the facts presented, the final determination found that China is the country of origin of the bolt container seal for purposes of U.S. Government procurement where the product is assembled in the United States from components of Chinese and Malaysian origin. Where a U.S.-origin lock body is used in the assembly of the bolt container seal in the United States, the final determination found that the country of origin of the lock body assembly is the United States and the country of origin of the imported bolt shank is China. With regard to the cable seal, the final determination found that the country of origin of the cable seal assembled in the United States from components of Chinese and Malaysian origin is China for purposes of U.S. Government procurement. The final determination also found that where a U.S.-origin lock body is used in the assembly of the cable seal in the United States, the country of origin of the cable seal is the United States for purposes of U.S. Government procurement.

**DATE:** The final determination was issued on February 8, 2007. A copy of the final determination is attached. Any party-at-interest, as

defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of (date of publication in the Federal Register).

**FOR FURTHER INFORMATION CONTACT:** Holly Files, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202-572-8817).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on February 8, 2007, pursuant to Subpart B of Part 177, Customs Regulations (19 CFR Part 177, subpart B), CBP issued a final determination concerning the country of origin of certain bolt container seals and cable seals to be offered to the United States Government under an undesignated government procurement contract. The CBP ruling number is HQ W563587. This final determination was issued at the request of TydenBrammall under procedures set forth at 19 CFR Part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511-18).

The final determination examined four different manufacturing scenarios. The first two scenarios involve the manufacture of the bolt container seal. The third and fourth scenarios involve the manufacture of the cable seal. The first scenario proposed the assembly of the bolt container seal in the United States solely from parts of foreign origin. In the second scenario, the bolt container seal was assembled in the United States from parts of U.S. and foreign origin. The final determination concluded that, based upon the facts presented in the first scenario, the assembly and packaging in the United States of five foreign-origin components to create the bolt container seal did not substantially transform the foreign components into a product of the United States. In the second scenario, the final determination found that the assembly of a U.S.-origin lock body with other foreign-origin components in the United States to form a lock body assembly substantially transformed the foreign components of the lock body assembly into a product of the United States. However, as one foreign-origin component, the bolt shank, was merely packaged with the lock body assembly, the final determination found that the bolt shank was not substantially transformed into a product of the United States. In the third scenario, the cable seal was assembled in the United States solely from parts of foreign origin. The fourth scenario involved the assembly of the cable seal in the United States from parts of U.S. and foreign origin. Based upon the facts presented in the third scenario, the final determination concluded that the assembly in the United States of four components of foreign origin to create the container seal did not substantially transform the foreign-origin components into a product of the United States. With regard to the facts presented in the fourth scenario, the final determination concluded that the assembly in the United States of a U.S.-origin

lock body with foreign-origin components to create the container seal substantially transformed the foreign components into a product of the United States.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the Federal Register within 60 days of the date the final determination is issued. Section 177.30, Customs Regulations (19 CFR 177.30), states that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the Federal Register.

Dated: February 13, 2007

SANDRA L. BELL,  
*Executive Director,*  
*Office of Regulations and Rulings,*  
*Office of International Trade.*

Attachment



**HQ W563587**  
February 8, 2007  
**MAR-2-05 RR:CTF:VS W563587 HEF**  
**CATEGORY: Marking**

MR. WILLIAM L. MATTHEWS  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
2300 N Street, N.W.  
Washington, DC 20037-1122

RE: U.S. Government Procurement; Final Determination; country of origin of bolt container seals and cable seals; substantial transformation; 19 C.F.R. Part 177

DEAR MR. MATTHEWS:

This is in response to your letter dated September 5, 2006, requesting a final determination on behalf of TydenBrammall, pursuant to subpart B of Part 177, Customs Regulations (19 C.F.R. § 177.21 *et seq.*). Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*), U.S. Customs and Border Protection ("CBP") issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated foreign country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of certain bolt container seals and cable seals. We note that TydenBrammall is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination. Confidential treatment for certain business information identified in your request for a final determination will be extended in accordance with your request. Photographs of the bolt container

seals and cable seals were submitted with your request. In preparing this final determination, consideration was given to your supplemental submission dated December 12, 2006.

FACTS:

I. Vu Bolt Container Seal

You advise us that TydenBrammall will manufacture Vu Bolt Container Seals at its production facility in Angola, Indiana. The container seals are used to secure rail, container, and truck cargo shipments. The container seal is composed of the following five components: bolt shank, lock body, locking ring, inner cover, and clear cover. The bolt shank, lock body, and locking ring are manufactured in China. The inner cover and clear cover are manufactured in Malaysia.

At the Indiana facility, a machine operator uses a press to seat the locking ring within the grooves of the lock body, and the operator gauges the locking ring to ensure proper placement within the lock body. Next, the lock body is inserted into the inner cover to form the lock body subassembly. The lock body subassembly is placed into a linear inkjet marking machine where a custom serialization number is applied to the subassembly. Then, the serialized subassemblies are inspected to ensure the correct serialization and quality. The serialized subassemblies are moved to an ultrasonic welding station where they are aligned in rows of five by ten and covered by the clear cover. There, the subassembly and clear cover are ultrasonically welded together and then inspected for quality. Finally, the completed subassemblies are packaged together with the bolt shanks in packages of 200 Vu Bolt Container Seals per box.

You also request that CBP issue a final determination for an identical assembly process except that the lock body is of U.S. origin.

II. XBorder Cable Seal

You advise us that TydenBrammall will manufacture the XBorder Cable Seal at its production facility in Angola, Indiana. The XBorder Cable Seal is intended for one-time use on trucks, shipping containers, and freight rail cars. A TydenBrammall press release emphasizes that the seal has a secure and permanent locking mechanism that makes cargo tampering virtually impossible without detection. Press Release, TydenBrammall, Xborder™ Seal Secures High Risk Cargo, <http://www.tydenbrammall.com/cargoguy/pressreleases/xborder.pdf> (last visited November 15, 2006). The XBorder Cable Seal is composed of the following four components: bolt shank, lock body, non-preformed cable, and locking ring. The bolt shank, lock body, and locking ring are manufactured in China, and the non-preformed cable is manufactured in Malaysia.

To begin the U.S. assembly operation, a machine operator uses a press to seat the locking ring within the grooves of the lock body and gauges the locking ring to ensure its proper placement. Then, the operator uses a multi-headed electrical resistance cutting machine to cut the non-preformed cable to a specified length. Next, both ends of the cable are ground using an abrasive belt to taper the welded tips of the cable. Then, one end of the cable is positioned at the bolt shank to form the bolt shank subassembly. The bolt shank subassembly is inserted into a swaging press that applies an eight-axis crimp to the subassembly. The other end of the cable is positioned at the lock body to form the lock body subassembly. The lock body subassembly is inserted into a swaging press that applies an eight-axis crimp to the subassembly. Then, both crimps of the cable seal are inspected for quality by ex-

aming the depth and position of the crimps. Next, a custom serial number is applied to the cable seal using a laser. The finished XBorder Cable Seals are inspected for quality, bundled into groups of 10 and packaged 100 per box.

You also request that CBP issue a final determination for an identical assembly process except that the lock body is of U.S. origin.

ISSUE:

What are the countries of origin of the bolt container seal and the cable seal for purposes of U.S. Government procurement?

LAW AND ANALYSIS: Pursuant to Subpart B of Part 177, 19 C.F.R. § 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 C.F.R. § 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States*, 6 Ct. Int'l Trade 204, 573 F. Supp. 1149 (1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). If the manufacturing or combining process is a minor one which leaves the identity of the imported article intact, a substantial transformation has not occurred. *Uniroyal Inc. v. United States*, 3 Ct. Int'l Trade 220, 542 F. Supp. 1026 (1982). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. See C.S.D. 80-111, C.S.D. 85-25, and C.S.D. 90-97.

In order to determine whether a substantial transformation occurs when components of various origins are assembled to form completed articles, CBP considers the totality of the circumstances and makes such decisions on a case-by-case basis. The country of origin of the article's components, the extent of the processing that occurs within a given country, and whether such processing renders a product with a new name, character, or use are primary considerations in such cases. Additionally, facts such as resources expended on product design and development, extent and nature of post-assembly inspection procedures, and worker skill required during the actual manufacturing process will be considered when analyzing whether a substantial transformation has occurred; however, no one such factor is determinative.

#### I. Vu Bolt Container Seal

CBP has considered a number of different scenarios involving the assembly of locking apparatus. Each case presents a slightly different set of facts. In Headquarters Ruling Letter (“HRL”) 734440, dated March 30, 1992, CBP found that a lock apparatus was substantially transformed in the United States as a result of combining it with pieces manufactured in the United States. CBP noted that the predominant expense of the assembled lock was in the parts produced in the United States, which required extensive manufacturing and development. By contrast, the imported piece was a generic mechanism that was inserted into the U.S. pieces.

In HRL 734923, dated May 14, 1993, CBP determined that imported components of a door lockset, the rosettes and parts of the latch, were substantially transformed when they were assembled together with significant U.S. components in the United States to make the finished door lockset. CBP noted that the manufacture of the rosettes in China was relatively simple and did not require a great deal of precision as compared to the manufacture of the other components in the United States, which required significant precision and substantial machinery and tooling.

Similarly, in HRL 735198, dated March 1, 1995, CBP held that imported lock cases and cylinder retainer blocks were substantially transformed into industrial padlocks in the United States as a result of their assembly with a substantial number of U.S.-origin components. CBP found that the character of the lock case and cylinder retainer block was changed as a result of their incorporation into the finished padlock.

By contrast, in HRL 734227, dated June 26, 1992, CBP found that chrome plated levers did not lose their separate identity when they were combined with domestic locksets to form completed lever locksets. CBP reasoned that the levers were a significant component of the completed article, and their assembly in no way changed the character of the levers. The levers were clearly recognizable both before and after the assembly. Moreover, the lever was a separate component, which had to be disassembled from the rest of the lockset prior to its installation.

In HRL 734629, dated October 1, 1992, CBP found that a lock cylinder was not substantially transformed where it was not attached to the remaining pieces of the lock until after it was received by the installer. Furthermore, CBP noted that the lock cylinder did not lose its separate identity when combined with the remaining pieces. The cylinder remained visible even after assembly by the installer and the attachment process was a simple screw mount, which meant that the cylinder easily could be replaced.

In HRL 735133, dated May 5, 1994, CBP held that imported lock parts and assemblies were not substantially transformed when assembled in the United States with a U.S.-origin coverplate screw. CBP noted that most of the cost in making the finished lock was attributable to operations performed in Taiwan and that the production in the United States was a simple manual assembly operation of basically finished parts.

In the first scenario, TydenBrammall proposes to assemble the Vu Bolt Container Seal entirely from imported parts. You contend that the various components are substantially transformed based on their assembly in the U.S. alone. The U.S. assembly operation that you describe consists of the assembly of a small number of parts, the addition of a serial number, the ultrasonic welding of a clear cover to the lock body assembly, and the packaging of the finished lock body assembly with the imported bolt shank. Similar to

the situation described in HRL 735133, *supra*, we find that the described manufacturing process is a simple assembly operation of imported components that is not complex and meaningful enough to result in a substantial transformation. In considering the last country in which the container seal underwent a substantial transformation, we believe that the lock body primarily imparts the essential character of the container seal. While the seal numbers are a unique feature to the container seal, the lock body is the component that imparts the ability of the container seal to actually lock and secure the cargo. The lock body is also the most valuable component of the container seal. Therefore, based on the facts presented in the first scenario, we find that China is the country of origin of the Vu Bolt Container Seal.

In the second scenario, TydenBrammall proposes to assemble the Vu Bolt Container Seal in the same manner except that the lock body is of U.S. origin. According to the confidential figures you have provided, the cost of the lock body represents a significant percentage of the total cost of the components used in the Vu Bolt Container Seal. In fact, under this scenario, most of the cost in making the container seal is attributable to the U.S. part and the labor performed in the United States. Furthermore, as noted above, we find that the lock body imparts the essential character of the container seal. Thus, we find that the imported locking ring, inner cover, and clear cover are substantially transformed when assembled in the United States with the U.S.-origin lock body to form the lock body assembly.

However, we also find that the Chinese-origin bolt shank is not substantially transformed when packaged with the lock body assembly in the United States. In HRL 734219, dated September 3, 1991, CBP ruled that water pans and charcoal pans were not substantially transformed when combined in the United States with other domestic and foreign components of smoker/grill units. CBP reasoned that the water pans and charcoal pans were completely finished articles when imported, there was no extensive manufacturing process involved, and that placing the pans into a container with other domestic and foreign articles was a minor operation, required no skill, and was not time-consuming. CBP noted that the pans were not permanently attached either before sale or once assembly of the unit was completed by the consumer. Moreover, Customs observed that the pans were functionally necessary to the use of the smoker/grill units, in that the units could not perform the essential operations of barbecuing, smoking, roasting or steaming without the pans.

In the instant case, the bolt shank is a finished article when it is imported into the United States. In the United States, it is merely packaged with the lock body assembly. This act is not an extensive manufacturing process. The bolt shank is not attached to the lock body assembly prior to the sale of the container seal. When the U.S. customer attaches the bolt shank, it remains clearly visible. Furthermore, the bolt shank is functionally necessary to the essential operation of the container seal. As such, the bolt shank is not substantially transformed as a result of packaging it with the lock body assembly. Therefore, the country of origin of the bolt shank is China. We note that the distinction between the origins of the bolt shank and the lock body assembly is not necessary in the first assembly scenario, as the country of origin for both the bolt shank and the lock body assembly is China.

Based upon the information provided, we find that China is the country of origin of the Vu Bolt Container Seal that is produced entirely from Chinese and Malaysian parts. Where TydenBrammall uses a U.S. lock body in the

assembly of the product in the United States, the country of origin of the lock body assembly is the United States and the country of origin of the bolt shank is China.

## II. XBorder Cable Seal

In the first scenario, you propose to manufacture the XBorder Cable Seal using imported components only. On numerous occasions, CBP has considered various manufacturing processes performed on wire and cable and whether such processes result in substantial transformations. In HRL 561392, dated June 21, 1999, CBP held that the cutting of a cable to length and the assembly of the cable to connectors did not result in a substantial transformation. In HRL 561392, all of the components were from Taiwan and the operations were performed in China.

In HRL 560214, dated September 3, 1997, CBP found that where imported wire rope cable was cut to length, U.S.-origin sliding hooks were put on the rope, and U.S.-origin end ferrules were swaged on in the United States, the wire rope cable was not substantially transformed.

In HRL 555774, dated December 10, 1990, CBP held that no substantial transformation occurred where Japanese wire was cut to length and U.S.-origin electrical connectors were crimped onto the ends of the wire in the United States.

Consistent with these decisions, we find that a substantial transformation does not occur as a result of operations described in the first scenario, which include cutting an imported cable to a specified length, grounding its ends, crimping an imported bolt shank and imported lock body onto the ends, and serializing the product with a laser. In considering the last country in which the cable seal underwent a substantial transformation, we believe that the essential character of the cable seal is derived from the lock body, which enables the cable ends to be sealed permanently to secure the cargo and prevent tampering without detection. Therefore, the country of origin of the XBorder Cable Seal is China.

In the second scenario, TydenBrammall proposes to assemble the XBorder Cable Seal in the same manner except that the lock body is of U.S. origin. According to the confidential figures you have provided, the lock body is by far the most valuable component of the cable seal. In fact, most of the cost in making the finished cable seal is attributable to the U.S. part and labor performed in the United States. As we stated above, we also believe that the lock body imparts the essential character of the cable seal. Therefore, we find that the components of foreign origin are substantially transformed when they are assembled with the U.S. lock body in the United States to form the cable seal. Based on these specific facts, the country of origin of the XBorder Cable Seal is the United States.

### **HOLDING:**

Based upon the facts provided, we find that where the Vu Bolt Container Seal is assembled from Chinese and Malaysian components in the United States, the components are not substantially transformed. The country of origin for the Vu Bolt Container Seal for purposes of U.S. Government procurement is China.

Where the lock body assembly of the Vu Bolt Container Seal is assembled in the United States using a U.S.-origin lock body, we find that the imported locking ring, inner cover and clear cover are substantially transformed. Thus, the country of origin of the lock body assembly for purposes of U.S. Government procurement is the United States. In addition, we hold that the

Chinese-origin bolt shank does not undergo a substantial transformation. Therefore, the country of origin of the bolt shank for purposes of U.S. Government procurement is China.

Where the XBorder Cable Seal is assembled from imported components in the United States, the imported components do not undergo a substantial transformation. Based on these facts, the country of origin of the XBorder Cable Seal for purposes of U.S. Government Procurement is China.

Where the XBorder Cable Seal is assembled in the United States from imported components and a U.S.-origin lock body, we find that the imported components undergo a substantial transformation. Therefore, the country of origin of this XBorder Cable Seal for purposes of U.S. Government procurement is the United States.

Notice of this final determination will be given in the Federal Register as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Any party-at-interest may, within 30 days after publication of the Federal Register notice referenced above, seek judicial review of this final determination before the Court of International Trade.

SANDRA L. BELL,  
*Executive Director,*  
*Office of Regulations and Rulings,*  
*Office of International Trade.*

[Published in the Federal Register, February 20, 2007 (72 FR 7771)]



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

*Washington, DC, February 14, 2007,*

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.

Miles B. Harmon for SANDRA L. BELL,  
*Executive Director,  
Regulations and Rulings,  
Office of International Trade.*

**19 CFR PART 177**

**REVOCAION OF RULING LETTERS AND REVOCAION  
OF TREATMENT RELATING TO THE TARIFF  
CLASSIFICATION OF CERTAIN LAMINATED VENEER  
LUMBER**

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

**ACTION:** Notice of revocation of two tariff classification ruling letters and revocation of treatment relating to the classification of certain laminated veneer lumber ("LVL").

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking two ruling letters relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of certain LVL. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice proposing these actions and inviting comments on their correctness was published in the *Customs Bulletin*, Volume 40, Number 52, on December 20, 2006. No comments were received in response to this notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after April 29, 2007.

**FOR FURTHER INFORMATION CONTACT:** Brian Barulich, Tariff Classification and Marking Branch, at (202) 572-8883.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke Headquarters Ruling Letter (HQ) 086255 and HQ 086256 was published in the *Customs Bulletin*, Volume 40, Number 52, on December 20, 2006. No comments were received in response to this notice. As stated in the proposed notice, the revocation will cover any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625 (c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved with substantially identical transactions should have advised CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may

raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In HQ 086255 and HQ 086256, CBP classified certain LVL in subheading 4418.90.40, HTSUS, which provided for: "Builders' joinery and carpentry of wood, including cellular wood panels and assembled parquet panels; shingles and shakes: Other: Other." While subheading 4418.90.40, HTSUS, has since been deleted, subheading 4418.90.45, HTSUS, now provides for the same merchandise. As a result of the additional information received after the issuance of HQ 086255 and HQ 086256, as well as a review of the heading text and Explanatory Notes, CBP now recognizes that the LVL which was the subject of those rulings is not classified in heading 4418, HTSUS, which provides for "Builders' joinery and carpentry of wood, including cellular wood panels and assembled parquet panels; shingles and shakes" because it does not have any recognizable features that dedicate and limit its use to the construction of buildings, which is a characteristic of merchandise of heading 4418, HTSUS. CBP's current view is that the LVL at issue in both rulings is classified in heading 4412, HTSUS, which provides for: "Plywood, veneered panels and similar laminated wood."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking HQ 086255, HQ 086256, and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analyses set forth in HQ 968306 and HQ 968307, which are set forth as attachments 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 action will become effective 60 days after its publication in the *Customs Bulletin*.

DATED: February 6, 2007

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 968306  
February 6, 2007  
CLA-2 RR:CTF:TCM 968306 BtB  
CATEGORY: Classification  
TARIFF NO.: 4412

MR. STEVE SANDERS  
BORDER BROKERAGE CO., INC.  
*P.O. Box B*  
*Blaine, WA 98290*

Re: Classification of laminated veneer lumber; HQ 086255 revoked

DEAR MR. SANDERS:

U.S. Customs and Border Protection ("CBP") has determined that Headquarters Ruling Letter ("HQ") 086255, issued to you on January 23, 1990, is in error. In that ruling, CBP classified certain laminated veneer lumber ("LVL") in subheading 4418.90.40, Harmonized Tariff Schedule of the United States Annotated ("HTSUSA"), which provides for: "Builders' joinery and carpentry of wood, including cellular wood panels and assembled parquet panels; shingles and shakes: Other: Other." This ruling revokes HQ 086255 and sets forth the correct classification of the LVL.

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 HQ 086255 was published in the *Customs Bulletin*, Volume 40, Number 52, on December 20, 2006. CBP received no comments during the notice and comment period that closed on January 20, 2007.

FACTS:

In HQ 086255, the merchandise at issue was described as follows:

LVL consists of multiple laminations of veneers having their grains parallel. In the case of your merchandise, the veneers are each one-eighth inch thick. The merchandise is produced in thicknesses of 3/4 inch to 2-1/2 inches and in lengths of 8 to 60 feet. After importation, the merchandise may be cut to any length or width the customer desires.

The ruling does not state the species of wood used to make the LVL.

ISSUE:

What is the classification of the LVL?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation ("GRI"). GRI 1 provides, in part, that classification decisions are to be "determined according to the terms of the headings and any relative section or chapter notes." If 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 GRI may then be applied, in order.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN") constitute the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subhead-

ings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

Heading 4412, HTSUSA, provides for: "Plywood, veneered panels and similar laminated wood." The EN to heading 4412, in pertinent part, states that the heading covers:

- (1) **Plywood** consisting of three or more sheets of wood glued and pressed one on the other and generally disposed so that the grains of successive layers are at an angle; this gives the panels greater strength and, by compensating shrinkage, reduces warping. Each component sheet is known as a "ply" and plywood is usually formed of an odd number of plies, the middle ply being called the "core".
- (2) **Veneered panels**, which are panels consisting of a thin veneer of wood affixed to a base, usually of inferior wood, by glueing under pressure.  
Wood veneered on to a base other than wood (e.g., panels of plastics) is also classified here provided it is the veneer which gives the panel its essential character.
- (3) **Similar laminated wood**. This group can be divided into two categories :
  - Blockboard, laminboard and battenboard, in which the core is thick and composed of blocks, laths or battens of wood glued together and surfaced with the outer plies. Panels of this kind are very rigid and strong and can be used without framing or backing.
  - Panels in which the wooden core is replaced by other materials such as a layer or layers of particle board, fibreboard, wood waste glued together, asbestos or cork.

However, the heading **does not cover** massive products such as laminated beams and arches (so-called "glulam" products) (generally **heading 44.18**).

The products of this heading remain classified herein whether or not they have been worked to form the shapes provided for in respect of the goods of heading 44.09, curved, corrugated, perforated, cut or formed to shapes other than square or rectangular and whether or not they have been worked at the surface, the edge or the end, or coated or covered (e.g., with textile fabric, plastics, paint, paper or metal) or submitted to any other operation, **provided** these operations do not thereby give such products the essential character of articles of other headings.

In HQ 086255, we held that the LVL at issue was not classifiable in heading 4412, HTSUSA, as it did not meet the description of plywood, veneered panels or similar laminated wood. We stated that the LVL was not plywood because the plies were parallel rather than at an angle, and that it was not veneered panels as described in the EN because such panels consist of a thin veneer of wood affixed to a base, usually of inferior wood. The pertinent portion of HQ 086255 reads as follows:

[I]t is clear that LVL is a structural lumber product that is used in a variety of load bearing applications in the construction industry. It is a

highly engineered product which is designed in many instances as a direct substitute for glue laminated timber. The Explanatory Notes to heading 4418 specifically provide that the term builders' carpentry includes glulam. In view of the similarity as to use between glulam and LVL and its use as a structural lumber product generally, we find that LVL is properly classifiable in heading 4418.

We no longer find the view stated in HQ 086255 to be correct. We still agree that LVL is not constructed like plywood. However, like veneer panels, the critical feature of LVL is that it is composed of laminated veneers. While we stated in HQ 086255 that glulam and LVL were similar, we now find this view to be incorrect. Glulam is made from lumber that is face and edge glued together to form massive products. In HQ 088292, dated February 21, 1991, we held that glulam is a particular type of structural timber product obtained by gluing together a number of wood laminations in a certain way to provide structural strength. Special construction, dimension and load bearing capacity are all features of glulam.

LVL does not have any recognizable features that dedicate and limit its use to the construction of buildings, which is characteristic of merchandise of heading 4418. *See generally* EN to heading 4418. Although LVL may be used for that purpose, it is a multiple use wood material similar to plywood panels, lumber boards and other wood boards. LVL may be used in many nonstructural applications such as scaffolding, planks, concrete forming, core material for windows and door manufacturing, furniture manufacturing, truck flooring, ladder rails, etc. Like lumber, it may be cut to many sizes and further manufactured for a variety of uses. *See generally* HQ 960469, dated October 24, 1997. For these reasons, it was incorrect to classify the LVL in heading 4418, HTSUSA.

Based on the foregoing, we find that LVL is a multi-use product with a construction similar to a veneer panel. Accordingly, it is classified in heading 4412, HTSUSA, pursuant to GRI 1.

**HOLDING:**

The laminated veneer lumber at issue is classified in heading 4412, HTSUSA, which provides for: "Plywood, veneered panels and similar laminated wood." Because we do not know the species of wood used to make the LVL, we cannot provide the classification of the lumber at the subheading level.

**EFFECT ON OTHER RULINGS:**

HQ 086255, dated January 23, 1990, 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.*

## [ATTACHMENT B]

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

HQ 968307  
February 6, 2007  
CLA-2 RR:CTF:TCM 968307 BtB  
CATEGORY: Classification  
TARIFF NO.: 4412

MR. KEITH ERICKSON  
T.J. INTERNATIONAL  
380 East Park Center Boulevard  
Boise, ID 83706

Re: Classification of laminated veneer lumber; HQ 086256 revoked

DEAR MR. ERICKSON:

U.S. Customs and Border Protection ("CBP") has determined that Headquarters Ruling Letter ("HQ") 086256, issued to you on January 23, 1990, is in error. In that ruling, CBP classified certain laminated veneer lumber ("LVL") in subheading 4418.90.40, Harmonized Tariff Schedule of the United States Annotated ("HTSUSA"), which provides for: "Builders' joinery and carpentry of wood, including cellular wood panels and assembled parquet panels; shingles and shakes: Other: Other." This ruling revokes HQ 086256 and sets forth the correct classification of the LVL.

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 HQ 086256 was published in the *Customs Bulletin*, Volume 40, Number 52, on December 20, 2006. CBP received no comments during the notice and comment period that closed on January 20, 2007.

FACTS:

In HQ 086256, the merchandise at issue was described as follows:

LVL consists of multiple laminations of veneers having their grains parallel. In the case of your merchandise, the veneers are each one-eighth inch thick. The merchandise is produced in thicknesses of 3/4 inch to 2-1/2 inches and in lengths of 8 to 60 feet. After importation, the merchandise may be cut to any length or width the customer desires.

The ruling does not state the species of wood used to make the LVL.

ISSUE:

What is the classification of the LVL?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation ("GRI"). GRI 1 provides, in part, that classification decisions are to be "determined according to the terms of the headings and any relative section or chapter notes." If 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 GRI may then be applied, in order.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN") constitute the official interpretation of the Harmonized System

at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

Heading 4412, HTSUSA, provides for: "Plywood, veneered panels and similar laminated wood." The EN to heading 4412, in pertinent part, states that the heading covers:

- (2) **Plywood** consisting of three or more sheets of wood glued and pressed one on the other and generally disposed so that the grains of successive layers are at an angle; this gives the panels greater strength and, by compensating shrinkage, reduces warping. Each component sheet is known as a "ply" and plywood is usually formed of an odd number of plies, the middle ply being called the "core".
- (2) **Veneered panels**, which are panels consisting of a thin veneer of wood affixed to a base, usually of inferior wood, by glueing under pressure.  
Wood veneered on to a base other than wood (e.g., panels of plastics) is also classified here provided it is the veneer which gives the panel its essential character.
- (3) **Similar laminated wood**. This group can be divided into two categories :
  - Blockboard, laminboard and battenboard, in which the core is thick and composed of blocks, laths or battens of wood glued together and surfaced with the outer plies. Panels of this kind are very rigid and strong and can be used without framing or backing.
  - Panels in which the wooden core is replaced by other materials such as a layer or layers of particle board, fibreboard, wood waste glued together, asbestos or cork.

However, the heading **does not cover** massive products such as laminated beams and arches (so-called "glulam" products) (generally **heading 44.18**).

The products of this heading remain classified herein whether or not they have been worked to form the shapes provided for in respect of the goods of heading 44.09, curved, corrugated, perforated, cut or formed to shapes other than square or rectangular and whether or not they have been worked at the surface, the edge or the end, or coated or covered (e.g., with textile fabric, plastics, paint, paper or metal) or submitted to any other operation, **provided** these operations do not thereby give such products the essential character of articles of other headings.

In HQ 086256, we held that the LVL at issue was not classifiable in heading 4412, HTSUSA, as it did not meet the description of plywood, veneered panels or similar laminated wood. We stated that the LVL was not plywood because the plies were parallel rather than at an angle, and that it was not veneered panels as described in the EN because such panels consist of a thin veneer of wood affixed to a base, usually of inferior wood. The pertinent portion of HQ 086256 reads as follows:

[I]t is clear that LVL is a structural lumber product that is used in a variety of load bearing applications in the construction industry. It is a highly engineered product which is designed in many instances as a direct substitute for glue laminated timber. The Explanatory Notes to heading 4418 specifically provide that the term builders' carpentry includes glulam. In view of the similarity as to use between glulam and LVL and its use as a structural lumber product generally, we find that LVL is properly classifiable in heading 4418.

We no longer find the view stated in HQ 086256 to be correct. We still agree that LVL is not constructed like plywood. However, like veneer panels, the critical feature of LVL is that it is composed of laminated veneers. While we stated in HQ 086256 that glulam and LVL were similar, we now find this view to be incorrect. Glulam is made from lumber that is face and edge glued together to form massive products. In HQ 088292, dated February 21, 1991, we held that glulam is a particular type of structural timber product obtained by gluing together a number of wood laminations in a certain way to provide structural strength. Special construction, dimension and load bearing capacity are all features of glulam.

LVL does not have any recognizable features that dedicate and limit its use to the construction of buildings, which is characteristic of merchandise of heading 4418. *See generally* EN to heading 4418. Although LVL may be used for that purpose, it is a multiple use wood material similar to plywood panels, lumber boards and other wood boards. LVL may be used in many nonstructural applications such as scaffolding, planks, concrete forming, core material for windows and door manufacturing, furniture manufacturing, truck flooring, ladder rails, etc. Like lumber, it may be cut to many sizes and further manufactured for a variety of uses. *See generally* HQ 960469, dated October 24, 1997. For these reasons, it was incorrect to classify the LVL in heading 4418, HTSUSA.

Based on the foregoing, we find that LVL is a multi-use product with a construction similar to a veneer panel. Accordingly, it is classified in heading 4412, HTSUSA, pursuant to GRI 1.

**HOLDING:**

The laminated veneer lumber at issue is classified in heading 4412, HTSUSA, which provides for: "Plywood, veneered panels and similar laminated wood." Because we do not know the species of wood used to make the LVL, we cannot provide the classification of the lumber at the subheading level.

**EFFECT ON OTHER RULINGS:**

HQ 086256, dated January 23, 1990, 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.*

**PROPOSED REVOCATION OF A RULING LETTER AND  
REVOCATION OF TREATMENT RELATING TO TARIFF  
CLASSIFICATION OF A McPHERSON STRUT COMPONENT**

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

**ACTION:** Notice of revocation of a tariff classification ruling letter and revocation of treatment relating to the classification of a McPherson strut component.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)), this notice advises interested parties that Customs and Border Protection (CBP) is proposing to revoke one ruling letter relating to the tariff classification of a McPherson strut component under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also proposing 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 March 30, 2007.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, 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, Trade and Commercial Regulations Branch, at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Kelly Herman, Tariff Classification and Marking Branch: (202) 572-8713.

**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 revoke one ruling letter pertaining to the tariff classification of a McPherson strut component. Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter (NY) 892999, dated January 5, 1994 (Attachment A), 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., a 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 in substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY 892999, CBP ruled that a McPherson strut component was classified in heading 8482, HTSUS, which provides for "Ball or roller bearings, and parts thereof." Since the issuance of that ruling, CBP has reviewed the classification of this item and has determined that the cited ruling is in error.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY 892999 and to revoke or modify any other ruling not specifically identified, to reflect the proper classification of McPherson strut component according to the analysis contained in proposed Headquarters Ruling Letter, HQ H004160, set forth as Attachment B. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical

transactions. Before taking this action, consideration will be given to any written comments timely received.

**DATED:** February 6, 2007

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

Attachments

[ATTACHMENT A]

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

NY 892999  
January 5, 1994  
CLA-2-84:S:N:N3:102 892999  
CATEGORY: Classification  
TARIFF NO.: 8482.10.5004

MR. PAUL PLAIA, JR.  
HOWREY & SIMON  
*1299 Pennsylvania Avenue, N.W.*  
*Washington, D.C. 20004-402*

RE: The tariff classification of an unground automotive thrust ball bearing from France

DEAR MR. PLAIA:

In your letter dated December 6, 1993, on behalf of your client, SKF USA, Inc., you requested a tariff classification ruling.

The item involved in this request, SKF part number BDAB447071, is a thrust ball bearing used in the assembly of a MacPherson Strut. The component consists of two plastic rings inside of which are two unground and un honed raceways. Separating the two raceways is a row of polished steel balls held in a plastic retainer. The bearing is used to reduce friction generated by the partial rotation of the main suspension spring when it compresses and expands.

The applicable subheading for the MacPherson strut thrust ball bearing will be 8482.10.5004, Harmonized Tariff Schedule of the United States (HTS), which provides for unground ball bearings. The rate of duty will be 11 percent ad valorem.

It is the opinion of this office that the instant merchandise would not be subject to antidumping duties under the current Department of Commerce antifriction bearing dumping investigation, as published in the Federal Register on May 15, 1989. Unground, non-precision bearings were not covered under the original scope of this investigation. Should you desire a formal scope determination on the applicability of this ADA case to your merchandise, please write directly to the Department of Commerce, Office of Compliance, Washington, D.C.

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

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

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

[ATTACHMENT B]

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

H004160  
CLA-2 RR:CTF:TCM H004160 KSH  
CATEGORY: Classification  
TARIFF NO.: 8708.80.6590

MR. DONALD S. SIMPSON  
BARTHCO INTERNATIONAL, INC.  
*5101 S. Broad Street  
Philadelphia, PA 19112*

RE: Revocation of New York Ruling Letter (NY) 892999, dated January 5, 1994; Classification of an unground automobile housed thrust ball bearing.

DEAR MR. SIMPSON:

This is in response to your letter of November 15, 2006, on behalf of your client SKF USA, Inc., in which you request reconsideration of New York Ruling Letter (NY) 89299, issued on January 5, 1994, concerning the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of an unground automotive housed thrust ball bearing. The housed thrust ball bearing was classified in heading 8482, HTSUS, which provides for: "Ball or roller bearings, and parts thereof." In accordance with your request for reconsideration of NY 892999, CBP has reviewed the classification of this item and has determined that the cited ruling is in error.

FACTS:

The merchandise at issue is identified as SKF part number BDAB447071. It is a housed thrust ball bearing used in the assembly of a McPherson Strut. A McPherson Strut is used in the steerable front or rear suspension of a motor vehicle. The housed thrust ball bearing is located in the strut assembly between the coil spring and the structure of the vehicle. Its function is to allow free rotation at the top of the spring that normally occurs when a coil spring is compressed and allows rotation of the complete strut assembly when used with suspensions for steered wheels. The article consists of two steel thrust washers, steel balls and a cage contained in a plastic enclosure. The washers, ball and cage form a thrust bearing with the washers serving as raceways and the balls as rolling elements. The enclosure is formed by two pieces of plastic that snap together to create a housing for the bearing. The housing serves to align the axis of the bearing with the axis of the strut

assembly and facilitates mounting the bearing between the fixed vehicle structure and rotating coil spring.

ISSUE:

Whether the housed thrust ball bearing is classified in heading 8482, HTSUS, as "Ball or roller bearings, and parts thereof", in heading 8483 as bearing housings or in heading 8708, HTSUS, as "Parts and accessories of the motor vehicles of headings 8701 to 8705."

LAW AND ANALYSIS:

Classification of goods under the HTSUSA is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification 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 GRI may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation at the international level. While neither legally binding nor dispositive, the EN provide a commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. It is Customs and Border Protection's (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

8482:	Ball or roller bearings . . . :
8483:	Transmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints); parts thereof:
8708:	Parts and accessories of the motor vehicles of headings 87.01 to 87.05:
8708.80:	Suspension systems and parts thereof (including shock absorbers):
	Parts:
	Other:
8708.80.65:	Other. . . .

In NY 892999, the housed thrust ball bearing was classified in heading 8482, HTSUS, which provides for, "Ball or roller bearings, and parts thereof." However, the housed thrust ball bearing is contained within a plastic enclosure formed by two pieces of plastic that snap together to create a housing for the bearing. The E.N. to heading 8482, HTSUS, provides in relevant part:

The heading **does not cover** machinery parts incorporating ball, roller or needle roller bearings; these are classified in their own appropriate headings, e.g.:

(a) Bearing housings and bearing brackets (**heading 84.83**).

As the exclusionary note to heading 8482, HTSUS, states that the heading does not cover bearing housings that incorporate ball bearings, we find that the subject merchandise is precluded from classification in heading 8482, HTSUS. It does however, meet the terms of heading 8483, HTSUS, which provides for: "Transmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints); parts thereof."

The housed thrust ball bearing is designed and used solely or principally as a part of an automobile suspension system. Heading 8708, HTSUS, provides for: "Parts and accessories of the motor vehicles of headings 8701 to 8705." While both heading 8483 and heading 8708 appear to describe the housed thrust ball bearing, classification must be determined in accordance with relevant section and chapter notes.

Articles of Section XVII, HTSUS, which includes chapter 87, are excluded from classification within Section XVI, HTSUS, under heading 8483 by Section XVI, Note 1(l). Thus, if the housed thrust ball bearing is classified in heading 8708, HTSUS, it is precluded from classification in heading 8483, HTSUS.

Section XVII, Note 2(e), HTSUS, states that articles of heading 8483, HTSUS, are excluded from Section XVII if the articles constitute integral parts of engines or motors.

Section XVII, Note 3, HTSUS, requires that the term "parts" in chapter 87, HTSUS, refer only to parts which are used solely or principally with the articles of chapter 87, HTSUS.

The housed thrust ball bearing is used "solely or principally" with motor vehicles. Motor vehicles are classified in chapter 87, HTSUS. Thus, the housed thrust ball bearing is a "part" within the meaning of Section XVII, Note 3, HTSUS.

Motor vehicles designed for the transport of persons are classified under heading 8703, HTSUS. As a part that is solely or principally used with articles of heading 8703, HTSUS, the housed thrust ball bearing meets the terms of heading 8708, HTSUS.

Section XVII, Note 2(e), HTSUS, only excludes articles of heading 8483, HTSUS, which are parts of engines or motors, from Section XVII, HTSUS. The housed thrust ball bearing is used in a vehicle's suspension system and not with engines or motors. Therefore, it is not excluded from Section XVII by Note 2(e), HTSUS. Accordingly, the housed thrust ball bearing is classified in heading 8708, HTSUS. Our decision is in accord with NY C82026, dated January 29, 1998, and NY N003269, dated November 28, 2006, which determined substantially similar merchandise was classified in heading 8708, HTSUS.

**HOLDING:**

By application of Notes 2(e) and 3 to Section XVII, the housed thrust ball bearing is classified in heading 8708, HTSUS. It is provided for in subheading 8708.80.6590, HTSUS, which provides for "Parts and accessories of the motor vehicles of headings 8701 to 8705: Suspension systems and parts thereof (including shock absorbers): Parts: Other: Other, Other". The column one, general rate of duty is 2.5% *ad valorem*.

EFFECT ON OTHER RULINGS:

NY 892999, dated January 5, 1994, is hereby revoked.

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

**19 CFR PART 177**

**REVOCAION OF RULING LETTERS AND TREATMENT  
RELATING TO TARIFF CLASSIFICATION OF AEROSOL  
DISPENSERS**

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

**ACTION:** Revocation of ruling letters and treatment relating to tariff classification of aerosol dispensers.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that CBP is revoking two rulings relating to the classification of aerosol dispensers under the Harmonized Tariff Schedule of the United States (HTSUS), and revoking any treatment CBP has previously accorded to substantially identical transactions. Notice of the proposed revocations was published on December 13, 2006, in the Customs Bulletin. Two comments were received in response to the notice.

**EFFECTIVE DATE:** This revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after April 29, 2007.

**FOR FURTHER INFORMATION CONTACT:** Ieva K. O'Rourke, Tariff Classification and Marking Branch: (202) 572-8803.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 8, 1993, Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts that emerge from the law are **informed compliance** and **shared responsibility**. These concepts are based on the premise that in order to maximize voluntary compliance with cus-

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

Pursuant to section 625(c)(1), Tariff Act of 1930, (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published on December 13, 2006, in the Customs Bulletin, Volume 40, Number 51, proposing to revoke HQ 957555, dated January 30, 1995, and NY 882294, dated April 22, 1993, both of which classified aerosol dispensers under a provision for electric motors and generators, in subheading 8501.10.40, HTSUS. Two comments were received in response to the proposed action (one comment opposing the proposed action, and one comment supporting the revocation of another ruling), and are addressed in the attached rulings. Additionally, the attached rulings were updated to reflect the 2007 HTSUS amendments.

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 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment it previously accorded to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking HQ 957555 and NY 882294, to reflect the proper classification of this merchandise as other parts of mechanical appliances for projecting, dispersing or spraying liquids or powders, in subheading 8424.90.90, HTSUS, in accordance with the analysis in HQ W968210 and HQ W968211,

which are set forth as "Attachment A" and "Attachment B" to this document, respectively. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment it previously accorded to substantially identical transactions.

In accordance with 19 U.S.C. 1625(c), these rulings will become effective 60 days after publication in the Customs Bulletin.

**DATED:** February 6, 2007

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 W968210  
February 6, 2007  
CLA-2 RR:CTF:TCM W968210 JAS  
CATEGORY: Classification  
TARIFF NO.: 8424.90.9080

MR. JEFF MILLER  
AMREP, INC.  
990 Industrial Park Drive  
Marietta, GA 30062

RE: Aerosol Dispenser; HQ 957555 Revoked

DEAR MR. MILLER:

In HQ 957555, issued to you on January 30, 1995, an aerosol dispenser, as hereafter described, was found to be classifiable as electric motors and generators of an output of under 18.65 W, in subheading 8501.10.40, Harmonized Tariff Schedule of the United States (HTSUS). We have reconsidered this classification and now believe it is incorrect.

Pursuant to section 625(c)(1), 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 HQ 957555 was published on December 13, 2006, in the *Customs Bulletin*, Volume 40, Number 51. Two comments were received, one opposing the proposal, and one suggesting the revocation of a third ruling.

FACTS:

The merchandise was described in HQ 957555 as consisting of an automatic metered aerosol dispenser which is a wall-mounted, battery-operated mechanical appliance used to activate an aerosol spray can at timed intervals. The dispenser, which measures approximately 9 inches x 3 1/2 inches x 3 1/2 inches, is comprised of a plastic cabinet with a side-hinged door containing an opening through which a liquid spray is emitted. Inside the cabi-



kind. See Note 2(b). *Nidec Corporation v. United States*, 861 F. Supp. 136, aff'd, 68 F. 3d 1333 (CAFC 1995). Thus, if the aerosol dispenser is found to qualify as an electric motor for tariff purposes, Note 2(a) requires that it be classified in heading 8501. If not, Note 2(b) requires that the aerosol dispenser be classified with the machine or machines with which it is solely or principally used.

The classification in HQ 957555 was predicated on the 8501 ENs which state, in part, that motors remain classified [in heading 8501] even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools. The ENs continue by including in heading 8501 "outboard motors" for the propulsion of boats, in the form of a unit comprising an electric motor, shaft, propeller and a rudder. Based on these ENs, heading 8501, HTSUS, has been broadly interpreted. For example, HQ 083955, dated July 10, 1989, stated that electric motors imported with additional components other than those listed in the 8501 ENs were intended to remain classifiable in heading 8501 provided the additional components complement the function of the motor. See also HQ 950834, dated March 6, 1992, which cites HQ 083955 with approval.

HQ 957555 stated that the primary function of the aerosol dispenser was to initiate spraying action and that the component which performs this function is the motorized gear system. The remaining components were said to perform functions complementary or auxiliary to the motorized gear system. We now believe that this analysis is incorrect. The facts indicate that, when turned on, the motorized gear and lever system begins to rotate, pressing down the lever on the aerosol spray valve and initiates the spraying action. In fact, even though the motorized gear and lever system may be involved in the sequence, it is the on/off switch that actually initiates the sequence. Therefore, while the gears and lever may complement the function of the motor there is no basis to conclude that the control board and incorporated timer setting does likewise. Noting Section XVI, Note 2(a), HTSUS, we conclude that the automatic battery-operated aerosol dispenser is not a good included in heading 8501.

A good may qualify as a "part" for tariff purposes if it satisfies a specific and integral need in the operation of the device with which it is used. *Mitsubishi Int'l v. United States*, 17 CIT 871, 829 F. Supp. 1387 (1993). A complete aerosol dispenser consisting of the described components, plus the actual aerosol spray can, would meet the terms of heading 8424 as a mechanical appliance for projecting, dispersing or spraying liquids or powders. The dispenser's function and manner of operation leads to the conclusion that it satisfies a specific and integral need in the operation of a complete aerosol can dispenser. Its unique design leads us to further conclude that it is solely or principally used with mechanical dispersing or spraying appliances of heading 8424, under the authority of Section XVI, Note 2(b), HTSUS.

In light of the foregoing analysis, one commenter suggested that another ruling, NY J82527, dated May 2, 2003, pertaining to a dispenser which aerosolizes and propels particles of liquid fragrance, imported without the liquid fragrance, should also be revoked, and the classification of that article be corrected from subheading 8424.89.70, HTSUS (8424.89.00 in the 2007 HTSUS) to subheading 8424.90.90, HTSUS. The commenter suggests that the dispenser satisfies a specific and integral need in the operation of the dispenser complete with the container of liquid. However, the aerosol dis-

penser satisfies a specific and integral need in the operation by initiating the spraying action although the unit itself does not spray. To the contrary, the dispenser of the liquid fragrance initiates the spraying action as well as performs the actual spraying, thereby performing the entire spraying operation as opposed to simply satisfying a specific and integral need in the spraying action. This latter article is a complete apparatus with the function of a mechanical appliance for projecting, dispersing, or spraying liquids or powders and is not a part of such an article. We do not agree that the analysis above compels the revocation of rulings pertaining to articles such as the dispenser in NY J82527 which aerosolizes and propels particles of liquid fragrance.

The comment opposing the revocation supported classification of the aerosol dispensers as other mechanical appliances for projecting, dispersing, or spraying liquids or powders, under subheading 8424.89.00, HTSUS, under the authority of GRI 2(a). The commenter is of the opinion that the dispensers are incomplete or unfinished without the aerosol can and batteries, and as such should not be classified as parts. We do not agree and have found that the dispensers are complete articles as imported, and can be classified under GRI 1 as parts, without resort to GRI 2. The dispenser itself does not have the ability itself to project, disperse or spray liquids or powders, and as such does not have the essential character of a good of subheading 8424.89.00, HTSUS.

**HOLDING:**

Under the authority of GRI 1 and Section XVI, Note 2(b), HTSUS, the automatic metered aerosol dispenser, as described, is provided for in heading 8424. It is classifiable in subheading 8424.90.9080, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), as other parts of mechanical appliances for projecting, dispersing, or spraying liquids or powders.

**EFFECT ON OTHER RULINGS:**

HQ 957555, dated January 30, 1995, is 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.*

[ATTACHMENT B]

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

HQ W968211  
February 6, 2007  
CLA-2 RR:CTF:TCM W968211 JAS  
CATEGORY: Classification  
TARIFF NO.: 8424.90.9080

MR. ARNOLD ZLOTNIK  
AIR-SCENT INTERNATIONAL  
215 8th Street  
Braddock, PA 15104

RE: Automatic Aerosol Dispenser; NY 882294 Revoked

DEAR MR. ZLOTNIK:

In NY 882294, which the Area Director, New York Seaport (now Director, National Commodity Specialist Division, U.S. Customs and Border Protection (CBP)), New York, issued to you on April 22, 1993, an automatic aerosol dispenser was found to be classifiable as an electric motor of an output not exceeding 37.5 watts, in subheading 8501.10.4060, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). We have reconsidered this classification and now believe that it is incorrect.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY 882294 was published on December 13, 2006, in the *Customs Bulletin*, Volume 40, Number 51. Two comments were received, one opposing the proposal, and one suggesting the revocation of a third ruling.

FACTS:

NY 882294 described an automatic aerosol dispenser that may be wall-mounted, having a plastic housing and containing a battery-operated motor. To activate the device, the cover is removed, and an aerosol can, containing air freshener or insecticide is placed in the unit. At preset intervals, the motor moves, and its shaft presses down on the aerosol button, spraying the contents. The motor operates at 0.3 watts.

The 2007 HTSUS provisions under consideration are as follows:

8425 Mechanical appliances . . . for projecting, dispersing or spraying liquids or powders; . . . ; parts thereof:

Other appliances:

8424.89.00 Other

8424.90 Parts:

8424.90.90 Other

\* \* \* \*

8502 Electric motors and generators (excluding generating sets):

8501.10           Motors of an output not exceeding 37.5 W:  
                    Of under 18.65 W:  
  
8501.10.40           Other

ISSUE:

Whether the automatic aerosol dispenser is an electric motor of heading 8501 or part of a mechanical appliance for projecting, dispersing or spraying liquids or powders.

LAW AND ANALYSIS:

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

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding and, therefore not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are thus useful in ascertaining the classification of merchandise under the Harmonized System. CBP believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Pursuant to Section XVI, Note 2, HTSUS, parts which are goods included in any of the headings of chapter 84 or 85 are in all cases to be classified in their respective headings. See Note 2(a). Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading are to be classified with the machines of that kind. See Note 2(b). *Nidec Corporation v. United States*, 861 F. Supp. 136, aff'd, 68 F. 3d 1333 (CAFC 1995).

The 8501 ENs state, in part, that motors remain classified [in heading 8501] even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools. The ENs continue by including in heading 8501 "outboard motors" for the propulsion of boats, in the form of a unit comprising an electric motor, shaft, propeller and a rudder. Based on these ENs, heading 8501, HTSUS, has been broadly interpreted. For example, HQ 083955, dated July 10, 1989, stated that electric motors imported with additional components other than those listed in the 8501 ENs were intended to remain classifiable in heading 8501 provided the additional components complement the function of the motor. See also HQ 950834, dated March 6, 1992, which cites HQ 083955 with approval.

The classification expressed in NY 882294 was based on the belief that the components of the aerosol dispenser complemented the function of the motor. We now believe that this is incorrect. In devices of this kind, when the on/off switch is turned on, the motor presses a shaft down on the aerosol spray valve thus initiating the spraying action. Even though the motor and shaft may be involved in the sequence, it is the on/off switch that actually begins the sequence. Therefore, while the shaft may complement the function of the motor there is no basis to conclude that the other components of the dispenser do likewise.

For these reasons, we conclude that the automatic aerosol dispenser is not a good included in heading 8501 under Section XVI, Note 2(a), HTSUS.

However, in respect of Note 2(b), a good may qualify as a "part" for tariff purposes if it satisfies a specific and integral need in the operation of the device with which it is used. *Mitsubishi Int'l v. United States*, 17 CIT 871, 829 F. Supp. 1387 (1993). A complete aerosol dispenser consisting of the described components plus the aerosol spray can would meet the terms of heading 8424 as a mechanical appliance for projecting, dispersing or spraying liquids or powders. The dispenser's function and manner of operation in this case leads to the conclusion that it satisfies a specific and integral need in the operation of a complete aerosol dispenser. Furthermore, its unique design leads us to conclude that it is solely or principally used with mechanical dispersing or spraying appliances of heading 8424, under the authority of Section XVI, Note 2(b), HTSUS.

In light of the foregoing analysis, one commenter suggested that another ruling, NY J82527, dated May 2, 2003, pertaining to a dispenser which aerosolizes and propels particles of liquid fragrance, imported without the liquid fragrance, should also be revoked, and the classification of that article be corrected from subheading 8424.89.70, HTSUS (8424.89.00 in the 2007 HTSUS) to subheading 8424.90.90, HTSUS. The commenter suggests that the dispenser satisfies a specific and integral need in the operation of the dispenser complete with the container of liquid. However, the aerosol dispenser satisfies a specific and integral need in the operation by initiating the spraying action although the unit itself does not spray. To the contrary, the dispenser of the liquid fragrance initiates the spraying action as well as performs the actual spraying, thereby performing the entire spraying operation as opposed to simply satisfying a specific and integral need in the spraying action. This latter article is a complete apparatus with the function of a mechanical appliance for projecting, dispersing, or spraying liquids or powders and is not a part of such an article. We do not agree that the analysis above compels the revocation of rulings pertaining to articles such as the dispenser in NY J82527 which aerosolizes and propels particles of liquid fragrance.

The comment opposing the revocation supported classification of the aerosol dispensers as other mechanical appliances for projecting, dispersing, or spraying liquids or powders, under subheading 8424.89.00, HTSUS, under the authority of GRI 2(a). The commenter is of the opinion that the dispensers are incomplete or unfinished without the aerosol can and batteries, and as such should not be classified as parts. We do not agree and have found that the dispensers are complete articles as imported, and can be classified under GRI 1 as parts, without resort to GRI 2. The dispenser itself does not have the ability itself to project, disperse or spray liquids or powders, and as such does not have the essential character of a good of subheading 8424.89.00, HTSUS.

**HOLDING:**

Under the authority of GRI 1 and Section XVI, Note 2(b), HTSUS, the automatic aerosol dispenser, as described, is provided for in heading 8424. It is classifiable in subheading 8424.90.9080, HTSUSA, as other parts of mechanical appliances for projecting, dispersing, or spraying liquids or powders.

**EFFECT ON OTHER RULINGS:**

NY 882294, dated April 22, 1993, is 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.*

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## 19 CFR PART 177

### **PROPOSED REVOCATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF CERTAIN “PODS” DESIGNED TO PROMOTE WEIGHT LOSS**

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

**ACTION:** Notice of proposed revocation of a tariff classification ruling letter and revocation of treatment relating to the classification of certain “pods” designed to promote weight loss.

**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 revoke one ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (“HTSUS”), of certain “pods” designed to promote weight loss. 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 March 30, 2007.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, 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:** Brian Barulich, Tariff Classification and Marking Branch, at (202) 572–8883.

## SUPPLEMENTARY INFORMATION:

**BACKGROUND**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke one ruling letter relating to the tariff classification of certain “pods” designed to promote weight loss. Although in this notice CBP is specifically referring to the revocation of New York Ruling Letter (“NY”) M81992, dated April 6, 2006 (Attachment A), this notice covers any rulings on this merchandise that may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625 (c)(2)), as amended by section 623 of Title VI, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved with substantially identical transactions should advise CBP during this notice period. An importer’s failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY M81992, CBP determined the two “pods” at issue, specifically identified as the “Silhouwell Fit” and the “Silhouwell Comfort,” to be a single composite good, and classified it in subheading 9506.91.0030, HTSUS, which provides for: “Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof: Other: Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof.”

As a result of additional information obtained about the merchandise after the issuance of NY M81992, CBP now recognizes that the two “pods” at issue are not a single composite good, but individual articles which must be classified separately. Specifically, the Silhouwell Fit is classified in subheading 9506.91.0030, HTSUS, which provides for: “Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof: Other: Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof” and the Silhouwell Comfort is classified in subheading 8516.29.0090, HTSUSA, which provides for: “Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons: other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof: Electric space heating apparatus and electric soil heating apparatus: Other, Other.”

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY M81992 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letter (“HQ”) H003373 (Attachment B). 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 taking this action, consideration will be given to any written comments timely received.

DATED: February 6, 2007

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

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
NY M81992  
April 6, 2006  
CLA-2-95:RR:NC:2:224 M81992  
CATEGORY: Classification  
TARIFF NO.: 9506.91.0030

MR. JEFF HUI  
JING, INC.  
*1852 Langley Ave.*  
*Irvine, CA 92614*

RE: The tariff classification of to styles of a combination exercise machine/  
DVD player and screen from China

DEAR MR. HUI:

In your letter dated March 21, 2006, you requested a tariff classification ruling.

You are requesting the tariff classification on a product that is identified as a Silhouwell. There are two styles as follows: the Silhouwell Fit and the Silhouwell Comfort. There has been no item number designated for this product. The Silhouwell Fit is an exercise machine that encloses the user up to the chest area while pedaling for exercise. The machine incorporates lights and heat for the comfort of the user. In addition, the machine has a built-in DVD player and viewing screen. The Silhouwell Comfort has the same features as the Silhouwell Fit, but it also has a vibrating mat for the comfort of the exerciser. An illustration was submitted, in lieu of a sample.

The two styles of exercise machines are considered composite goods for tariff purposes. No one heading in the tariff schedule covers these components in combination; GRI 1 cannot be used as a basis of classification. GRI 3 provides for goods that are, prima facie, classifiable in two or more headings. GRI 3 (b) provides that mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale shall be classified as if they consisted of the material or component which gives them their essential character. GRI 3 (c) provides that when goods cannot be classified by reference to GRI 3 (b), they are classified in the heading/subheading of the tariff that occurs last in numerical order among those that equally merit consideration.

Noting GRI-3 (c), the heading/subheading that occurs last in numerical order among those that equally merit consideration would dictate the classification of the composite good. The heading/subheading for the exercise machine portion of the product occurs last in numerical order in the HTSUS among those that equally merit consideration. Therefore, the applicable subheading for the Silhouwell Fit and the Silhouwell Comfort, no item numbers indicated, will be 9506.91.0030, Harmonized Tariff Schedule of the United States (HTSUS), which provides for other: articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof . . . other. The rate of duty will be 4.6% ad valorem.

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 World Wide Web at <http://www.usitc.gov/tata/hts/>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Tom McKenna at (646) 733-3025.

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

[ATTACHMENT B]

HQ H003373  
CLA-2 RR:CTF:TCM H003373 BtB  
CATEGORY: Classification  
TARIFF NO.: 9506.91.0030, 8516.29.0090

MR. JEFF HUI  
JING, INC.  
*1852 Langley Ave.*  
*Irvine, CA 92614*

Re: Classification of "Silhouwell Fit" pod and "Silhouwell Comfort" pod; NY M81992 revoked

DEAR MR. HUI:

Based on your letter dated September 18, 2006, U.S. Customs and Border Protection ("CBP") has determined that New York Ruling Letter ("NY") M81992, issued to you on April 6, 2006, is in error. We thank you for bringing the fact that the merchandise was not described correctly in NY M81992 to our attention.

In NY M81992, CBP found the two machines at issue, the "Silhouwell Fit" and the "Silhouwell Comfort," to be a single composite good and classified it, pursuant to General Rule of Interpretation 3(b), in subheading 9506.91.0030, Harmonized Tariff Schedule of the United States Annotated ("HTSUSA"), which provides for: "Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof: Other: Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof."

This ruling revokes NY M81992 and sets forth the correct classification of the "Silhouwell Fit" pod and "Silhouwell Comfort" pod.

FACTS:

The articles at issue are manufactured in Italy by a company identified as "Intégrée." In NY M81992, the merchandise at issue was described as follows:

You are requesting the tariff classification on a product that is identified as a Silhouwell. There are two styles as follows: the Silhouwell Fit and the Silhouwell Comfort. There has been no item number designated for this product. The Silhouwell Fit is an exercise machine that encloses the user up to the chest area while pedaling for exercise. The machine

incorporates lights and heat for the comfort of the user. In addition, the machine has a built-in DVD player and viewing screen. The Silhouwell Comfort has the same features as the Silhouwell Fit, but it also has a vibrating mat for the comfort of the exerciser. An illustration was submitted, in lieu of a sample.

The description in NY M81992 set forth for the Silhouwell Fit is correct. This machine or "pod," measuring 8 feet in length, 3 feet in width, and 4 feet in height, was further described in a national publication as follows:

Essentially a lounge-positioned stationary bike, the pod heats to between 35 and 37 degrees Celsius (95 to 98.6 degrees Fahrenheit). As users pedal toward their target heart-rate, the hypothalamus is stimulated. This action . . . 'jolts your body into burning fat.'<sup>1</sup>

In your letter to us dated September 18, 2006, you stated the following regarding the Silhouwell Fit:

The main function of the machine is the bicycle pedal inside which the user pedals in order to exercise. The machine also has heaters at a temperature of 35 degrees Celsius to keep the body warm while pedaling. Another function is the chromatherapy which are colored lights that provide mood lighting and atmosphere, promoting feelings of wellbeing. The machine also has a DVD player and screen for the user to watch videos while pedaling (for entertainment purposes).

The description in NY M81992 set forth for the Silhouwell Comfort is not correct. This machine, also measuring 8 feet in length, 3 feet in width, and 4 feet in height, was described in the same national publication as:

Comfort . . . is used in conjunction with "Intégrée essential oils to drain excess fluid from the body. After sliding into its ergonomically designed seat, the pod heats to 65 to 78 degrees Celsius (149 to 172 degrees Fahrenheit) and vibrates gently. The vibration and the heat therapy paired with the sitting position, which is optimal for drainage, is what makes it effective."<sup>2</sup>

In your letter to us dated September 18, 2006, you stated the following regarding the Silhouwell Comfort:

This machine does NOT have a bicycle pedal. The main function for Comfort is the vibrating mat that the user sits on while in the enclosed environment, which is used primarily for relaxation and massage. This machine also has heaters that provide heat at a temperature of 65–70 degrees Celsius. This also keeps the body warm and helps to provided [*sic*] added feelings of relaxation. The machine has chromatherapy and a DVD player just like the Fit machine.

You also clarified the difference between the machines at issue:

Your original ruling classified both machines as one composite machine. However, I just want to clarify that the machines are in fact 2 different machines. They look identical from the outside, but Fit has a bicycle pedal and Comfort has a vibrating mat with NO pedal. . . .

<sup>1</sup> See "Pod People" by Emili Vesilind, *Robb Report Luxury Home*, July 1, 2005. Article available online at: <http://www.robbreportluxuryhome.com/Articles/Home-Technology/Pod-People.asp>. The text in quotation marks is attributed to you.

<sup>2</sup> *Id.* Again, the text in quotation marks is attributed to you.

They are sold together but they can be used separately. The two machines are sold together to beauty spas or similar service oriented businesses. The machines are not meant for resale to the retail consumer.

The pods are suited for commercial or residential use. The description in the national publication referenced above clearly identifies the purpose of both of the pods:

Intégrée Silhouwell pods look like bumper cars, but these cocoonlike seats have a more mature mission. The primary components in a multistep wellness system **designed to promote weight loss, the pods target excess water retention and stubborn body fat** (Emphasis Added).

ISSUE:

What is the classification of the Silhouwell Fit pod and the Silhouwell Comfort pod?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation ("GRI"). GRI 1 provides, in part, that classification decisions are to be "determined according to the terms of the headings and any relative section or chapter notes." If 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 GRI may then be applied, in order.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN") constitute the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

The Silhouwell Fit pod and the Silhouwell Comfort pod are separate machines. Although they are sold together, they are classified separately. Contrary to the analysis in NY M81992 the machines, together, do not constitute a single composite good.

The Silhouwell Fit pod and the Silhouwell Comfort pod are both articles that incorporate several components. The Silhouwell Fit incorporates a lounge-positioned stationary bike, heaters, lights, and DVD player with viewing monitor. Each of the components in the machine is classified in different headings. Based on the additional information provided, we believe that the stationary bike is classified in heading 9506, HTSUSA, as physical exercise equipment, that the heaters are classified in heading 8516, HTSUSA, as electric heating apparatus, the lights are classified in heading 9405, HTSUSA, as other lighting, and the DVD player with monitor is classified in heading 8528, HTSUSA, as a video monitor incorporating video recording or reproducing apparatus.

Meanwhile, the Silhouwell Comfort incorporates a vibrating seat apparatus, heaters, lights, DVD player and monitor. Each of the components in the machine is also classified in different headings. Based on the additional information provided, we believe that the vibrating seat apparatus is classified in heading 8543, HTSUSA, as an electrical machine or apparatus, having individual functions, not specified or included elsewhere in Chapter 85,

that the heaters are classified in heading 8516, HTSUSA, as electric heating apparatus, the lights are classified in heading 9405, HTSUSA, as other lighting, and the DVD player with monitor is classified in heading 8528, HTSUSA, as a video monitor incorporating video recording or reproducing apparatus.

We have considered whether the vibrating seat apparatus may be classified in heading 9019, HTSUSA, as massage apparatus based on your statement that “[t]he main function for Comfort is the vibrating mat that the user sits on while in the enclosed environment, which is used primarily for relaxation and massage.” However, a review of all of the materials available to us evidences that the pods are “. . . designed to promote weight loss” by targeting “excess water retention and stubborn body fat.”<sup>3</sup> In light of this fact, the pods are not classifiable as massage apparatus in heading 9019, HTSUSA.

There is no single heading that specifically and completely describes the machines at issue. Because the articles are *prima facie* classifiable under two or more headings, they cannot be classified according to GRI 1.

In pertinent part, GRI 2(b) provides that any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. However, GRI 2(b) adds that the classification of goods consisting of more than one material or substance shall be according to the principles of rule 3. Accordingly, GRI 3 is utilized when, by application of GRI 2(b), a good consists of materials or substances which are *prima facie* classifiable under two or more headings.

GRI 3(a) states that when goods are *prima facie* classifiable under two or more headings, classification shall be effected as follows:

The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

In this instance, several headings are equally specific in relation to one another. As we cannot classify these goods pursuant to GRI 3(a), we turn to GRI 3(b), which states:

Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

To determine whether the merchandise constitutes a composite good, we look to Explanatory Note IX to GRI 3(b), which states in pertinent part:

For the purposes of this Rule, composite goods made up of different components shall be taken to mean not only those in which the components are attached to each other to form a practically inseparable whole but also those with separable components, **provided** these components are

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<sup>3</sup> *Id.*

adapted one to the other and are mutually complementary and that together they form a whole which would not normally be offered for sale in separate parts.

In the case at hand, each pod is composed of four components that are attached to form an inseparable whole. Consequently, the articles are composite goods. Thus, we must determine which component imparts the essential character to the each pod. Explanatory Note (EN) VIII to GRI 3(b) states:

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

In regard to the Silhouwell Fit pod, it is the lounge-positioned stationary bike that imparts the essential character of the article because the bike is central to the function of the machine. The user is active on the machine. Pedaling towards a target heart rate stimulates the hypothalamus, as you stated, "jolts your body into burning fat." We recognize that the heaters are secondarily important to the function of the machine. However, the heaters only heat the machine up to between 95 and 98.6 degrees Fahrenheit. While the heaters may also aid in calorie burning, we believe that it is the physical activity done on the bike through which most fat burning will occur, thereby making the stationary bike the most important component in regard to weight loss, the goal of using the Silhouwell Fit Pod. Consequently, the Silhouwell Fit pod is classified, at the heading level, as a stationary bike under heading 9506. At the ten-digit level, the Silhouwell Fit pod is classified in subheading 9506.91.0030, HTSUSA, which provides for: "Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof: Other: Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof." We note that the Silhouwell Fit pod was classified in this provision in NY M81992, but the analysis was not correct.

In regard to the Silhouwell Comfort pod, it is the heaters that impart the essential character of the article because the heaters are central to the function of the machine. The user is passive on this machine. Unlike the Silhouwell Fit pod, the Silhouwell Comfort pod does not incorporate a component on which the user can exercise. Instead, the user simply sits on an ergonomically designed seat that vibrates. The heat in the pod is then turned up to as high to between 149 to 172 degrees Fahrenheit. It is the high temperature generated by the heaters that will primarily cause a user to sweat and drain fluid when using the pod, the goal of using the Silhouwell Comfort pod. We recognize that the vibrating seat apparatus is secondarily important to the function of the machine. The apparatus puts the user in a position that is optimal for drainage and gently vibrates. While this action may aid in the process, it is the heat that will cause the user to sweat and release fluid from the body, the goal of using the Silhouwell Comfort pod. Consequently, the Silhouwell Comfort pod is classified in heading 8516, specifically in subheading 8516.29.0090, HTSUSA, which provides for: "Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hair-dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons: other electrothermic appliances of a

kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof: Electric space heating apparatus and electric soil heating apparatus: Other, Other.”

**HOLDING:**

By application of GRI 3(b), the Silhouwell Fit pod is classified in heading 9506, HTSUSA. It is specifically provided for in subheading 9506.91.0030, HTSUSA, which provides for: “Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof: Other: Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof.” The applicable column one (general) rate of duty under the 2007 HTSUSA is 4.6% *ad valorem*.

By application of GRI 3(b), the Silhouwell Comfort pod is classified in heading 8516, HTSUSA. It is specifically provided for in subheading 8516.29.0090, HTSUSA, which provides for: “Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons: other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof: Electric space heating apparatus and electric soil heating apparatus: Other, Other.” The applicable column one (general) rate of duty under the 2007 HTSUSA is 3.7% *ad valorem*.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUSA and the accompanying duty rates are provided on the world wide web at [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY M81992, dated April 6, 2006, is hereby revoked.

MYLES B. HARMON,  
*Director,*

*Commercial and Trade Facilitation Division.*

**REVOCATION OF RULING LETTER AND TREATMENT  
RELATING TO TARIFF CLASSIFICATION OF PALM FATTY  
ACID DISTILLATE**

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

**ACTION:** Notice of revocation of ruling letter and revocation treatment relating to tariff classification of palm fatty acid distillate.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that CBP is revoking one ruling letter relating to the

classification of palm fatty acid distillate (PFAD) under the Harmonized Tariff Schedule of the United States (HTSUS), and is revoking any treatment CBP has previously accorded to substantially identical transactions. PFAD is produced by subjecting crude palm oil to heat and steam at reduced pressures until it solidifies at room temperature into an amber-color. Once solidified, fatty-free acids compose 85–90 % of PFAD's total substance of weight. Notice of the proposed action was published in the Customs Bulletin, Vol. 40, No. 30, on July 19, 2006. No comments were received in response to the notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after April 29, 2007.

**FOR FURTHER INFORMATION CONTACT:** Sasha Kalb, Tariff Classification and Marking Branch, (202) 572–8791.

**SUPPLEMENTARY INFORMATION:**

**Background**

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

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI, a notice was published in the Customs Bulletin, Vol. 40, No. 30, on July 19, 2006, proposing to revoke one ruling relating to the tariff classification of palm fatty acid distillate. No comments were received in response to the notice. As stated in the proposed notice, this revocation will cover any rulings on the subject merchandise which may exist but have not been

specifically identified. Any party who has received an interpretative ruling or decision (i.e., ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during this notice period.

Similarly, pursuant to section 625 (c)(2), Tariff Act of 1930 (19 U.S.C. 1625 (c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment it previously accorded to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or his agents for importations of merchandise subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking Headquarters Ruling (HQ) 962807 to reflect the proper tariff classification of the merchandise under heading 3823, HTSUS, specifically in subheading 3823.19.2000, HTSUS, which provides for: "industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols; industrial monocarboxylic fatty acids; acid oils from refining; other: derived from coconut, palm-kernel or palm oil" pursuant to the analysis set forth in HQ W967992 (attachment). Additionally, pursuant to 19 U.S.C. § 1625 (c)(2), CBP is revoking any treatment previously accorded by it to substantially identical transactions.

In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

**DATED:** February 6, 2007

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

Attachment

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

HQ W967992

February 6, 2007

**CLA-2 RR:CTF:TCM W967992 CAM****CATEGORY: Classification****TARIFF NO.: 3823.19.2000**

LEWIS E. LEIBOWITZ  
WILLIAM D. NUSSBAUM  
*Hogan & Hartson L.L.P.*  
*Columbia Square*  
*555 13th St. N.W.*  
*Washington, D.C. 20004-1109*

**RE:** Revocation of HQ 962807; Palm Fatty Acid Distillate

DEAR MR. LEIBOWITZ and MR. NUSSBAUM:

In Headquarters Ruling Letter (HQ) 962807, dated April 29, 2002, palm fatty acid distillate (PFAD), a product produced by your client, Church & Dwight Co., was classified in subheading 3824.90.4090 under the Harmonized Trade Schedule of the United States (HTSUS), which provides for: "prepared binders for foundry molds or cores; chemical products and preparations of chemical industries, not elsewhere specified or included: other: other: fatty substances of animal or vegetable origin and mixtures thereof, other." Customs and Border Protection (CBP) has reviewed HQ 962807, and have found that ruling to be in error.

HQ 962807 is a decision on a specific protest. A protest is designed to handle entries of merchandise, which have entered the United States and been liquidated by CBP. A final determination of a protest, pursuant to Part 174, CBP Regulations (19 CFR 174), cannot be modified or revoked as it is applicable only to the merchandise, which was the subject of the entry protested. Furthermore, CBP lost jurisdiction over the protested entries in HQ 962807 when notice of denial of the protest was received by the protestant. See San Francisco Newspaper Printing Co.v. United States, 9 CIT 517, 620 F. Supp. 738 (1935).

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 modification was published on September 6, 2006, in the *Customs Bulletin*, Volume 40, No. 30. No comments were received in response to this notice.

**FACTS:**

HQ 962807 described PFAD as a product that is produced by subjecting crude palm oil to heat and steam at reduced pressures. During this process, steam carries off the PFAD until it condenses into a liquid. After condensation, PFAD solidifies at room temperature into an amber-color. Once solidified, fatty free acids compose 85-90 % of PFAD's total substance of weight. These fatty free acids include palmitic acid (about 45-50 %), oleic acids (about 35-36 %), linoleic acid (about 8-9 %), and stearic acid (about 5-6 %). The remaining 10-15% of the weight of PFAD does not consist of fatty free acids, and that includes a combination of entrained triglycerides (about 7-8%), waxes, sterols, tocopherols, water, and plant pigments.

At issue in HQ 962807, was whether PFAD was classified in subheading 1511.90.0000, HSTUS, as “palm oil and its fractions whether or not refined, but not chemically modified: other,” or subheading 3824.90.4090, HTSUS, as “prepared binders for foundry molds or cores; chemical products and preparations of chemical industries, not elsewhere specified or included: other: other: fatty substances of animal or vegetable origin and mixtures thereof, other.” In that protest, classification in heading 3823, HTSUS, as industrial monocarboxylic fatty acids was never considered. Additional information has come before CBP suggesting that the correct classification of PFAD is in heading 3823, HTSUS.

**ISSUE:**

What is the proper classification under the HTSUS of palm fatty acid distillate?

**LAW AND ANALYSIS:**

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes. 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 require otherwise, then CBP may apply the remaining GRIs.

In interpreting the headings and subheadings, CBP looks to the Harmonized Commodity Description and Coding System Explanatory Notes (ENs), which constitute the official interpretation of the HTSUS. While not legally binding or dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and, generally, indicate the proper interpretation of headings. See T.D. 89-80, 54 FR 35127, 35128 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

3823	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols:
	Industrial monocarboxylic fatty acids; acid oils from refining:
	* * *
3823.19	Other:
3823.19.20	Derived from coconut, palm-kernel or palm oil
3824	Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included:
3824.90	Other:
	Other :
	* * *
3824.90.40	Fatty substances of animal or vegetable origin and mixtures thereof
	* * *

3824.90.4090

Other

In HQ 962807, PFAD was classified in heading 3824, HTSUS, but additional information has come before CBP, which indicates that is not the correct classification. Heading 3824, HTSUS, is a basket provision where merchandise should only be classified in that heading, if it is not “elsewhere specified or included” in another heading. Before we can classify PFAD in the basket provision heading 3824, HTSUS, classification in heading 3823, HTSUS, as industrial monocarboxylic fatty acids must be considered.

Applying GRI 1, PFAD meets the terms of heading 3823, HTSUS, because it is an industrial monocarboxylic fatty acid. For instance, PFAD is produced through an industrial process that includes fractional distillation. Furthermore, PFAD’s chemical structure comports with that of a monocarboxylic fatty acid. A carboxylic acid is composed of a “broad array of organic acids” that end in a carboxyl group and, typically, a carboxylic acid includes “the large and important class of fatty acids.” Hawley’s Condensed Chemical Dictionary 223 (12th ed. 1993). A monocarboxylic is one carboxylic acid. Id. The chemical composition of the PFAD in question meets the definition of a monocarboxylic acid because it is an organic acid that includes fatty acids. A fatty acid is a “carboxylic acid derived from or contained in an animal or vegetable fat or oil.” Id. at 507. PFAD is composed of approximately 85 % fatty acids that are derived from palm oil. Therefore, PFAD is classifiable in heading 3823, HTSUS.

Moreover, the ENs to heading 3823, HTSUS, support classification of PFAD in that heading. The ENs indicate that heading 3823, HTSUS, includes “[d]istilled fatty acids which are obtained after hydrolytic splitting of various fats and oils (e.g., coconut oil, palm oil, tallow) followed by a purification process (distillation).” (emphasis in original). PFAD meets the description from the ENs. As stated, PFAD is a fatty acid that is produced through hydrolysis whereby steam and heat split palm oils and fats to create the final product. As such, the guidance provided by ENs’ indicates that PFAD meets the terms of heading 3823, HTSUS.

Though the ENs to heading 3823, HTSUS, preclude acids with a fatty acid purity of 90 % or more from falling with the ambit of heading 3823, HTSUS, that exclusion is not dispositive in this case. In HQ 964607, dated July 8, 2002, CBP classified saw palmetto berries with a total acid content of around 87 % in heading 3823, HTSUS. Similar to the saw palmetto berries, PFAD has an acid content between 85 and 90 %. Therefore, like in HQ 964607, the PFAD should not be precluded by the ENs to heading 3823, HTSUS.

Moreover, previous CBP rulings support classification of PFAD in heading 3823, HTSUS. In HQ 964531, dated March 14, 2002, CBP classified a coconut fatty acid produced through hydrolysis in heading 3823, HTSUS. Like the coconut oil in HQ 964531, PFAD is created from a similar hydrolysis process involving heat and steam on palm oil. CBP finds that because PFAD is specified elsewhere under heading 3823, HTSUS, that classification under heading 3824, HTSUS, is precluded by application of GRI 1.

**HOLDING:**

By applying GRI 1, Palm fatty acid distillate is classified under heading 3823, HTSUS, and, specifically, under subheading 3823.19.2000, HTSUS, which provides for: “industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols; industrial monocarboxylic fatty acids; acid

oils from refining; other: derived from coconut, palm-kernel or palm oil." The general, column one rate of duty is 2.3 % percent ad valorem.

**EFFECT ON OTHER RULINGS:**

HQ 962807, dated April 29, 2002, is 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 & Trade Facilitation Division.*

