

# U.S. Customs and Border Protection

## *General Notices*

### **PROPOSED COLLECTION; COMMENT REQUEST**

#### **Lay Order Period – General Order Merchandise**

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

**ACTION:** 60-Day Notice and request for comments; Extension of existing collection of information: 1651–0079.

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

**DATES:** Written comments should be received on or before May 5, 2008, to be assured of consideration.

**ADDRESS:** Direct all written comments to U.S. Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

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

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act (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:** Lay Order Period – General Order Merchandise Cost Submissions

**OMB Number:** 1651–0079

**Form Number:** N/A

**Abstract:** This collection is required to ensure that the operator of an arriving carrier, or transfer agent shall notify a bonded warehouse proprietor of the presence of merchandise that has remained at the place of arrival or unloading without entry beyond the time period provided for by regulation.

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

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

**Affected Public:** Businesses, Institutions

**Estimated Number of Respondents:** 390

**Estimated Number of Responses:** 12,675

**Estimated Time Per Respondent:** 32.5 hours

**Estimated Total Annual Burden Hours:** 12,675

Dated: February 27, 2008

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

**PROPOSED COLLECTION; COMMENT REQUEST****Notice of Detention**

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

**ACTION:** 60-Day Notice and request for comments; Extension of existing collection of information: 1651-0073.

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

**DATES:** Written comments should be received on or before May 5, 2008, to be assured of consideration.

**ADDRESS:** Direct all written comments to U.S. Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

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

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act (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; 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:** Notice of Detention

**OMB Number:** 1651-0073

**Form Number:** N/A

**Abstract:** CBP is empowered to detain merchandise when a violation of the laws relating to the admissibility of merchandise is suspected and issue a Notice of Detention to the responsible party. Any recipient of a Notice of Detention may respond by providing more information to CBP in order to facilitate the determination regarding admissibility of the merchandise.

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

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

**Affected Public:** Businesses, Institutions

**Estimated Number of Respondents:** 1,350

**Estimated Time Per Respondent:** 2 hours

**Estimated Total Annual Burden Hours:** 2,700

Dated: February 27, 2008

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

[Published in the Federal Register, March 4, 2008 (73 FR 11657)]

## PROPOSED COLLECTION; COMMENT REQUEST

### Establishment of a Container Station

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

**ACTION:** 60-Day Notice and request for comments; Extension of existing collection of information: 1651-0040

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

**DATES:** Written comments should be received on or before May 5, 2008, to be assured of consideration.

**ADDRESS:** Direct all written comments to U.S. Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

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

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act (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:** Establishment of a Container Station

**OMB Number:** 1651-0040

**Form Number:** N/A

**Abstract:** This collection is an application to establish a container station for the vaning and devaning of cargo.

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

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

**Affected Public:** Businesses, Institutions

**Estimated Number of Respondents:** 205

**Estimated Time Per Respondent:** 3 hours

**Estimated Total Annual Burden Hours:** 615

Dated: February 27, 2008

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

[Published in the Federal Register, March 4, 2008 (73 FR 11656)]

## PROPOSED COLLECTION; COMMENT REQUEST

### Bonded Warehouse Regulations

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

**ACTION:** 60-Day Notice and request for comments; Extension of existing collection of information: 1651-0041

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

**DATES:** Written comments should be received on or before May 5, 2008, to be assured of consideration.

**ADDRESS:** Direct all written comments to U.S. Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, D.C. 20229.

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

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical util-

ity; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Bonded Warehouse Regulations

**OMB Number:** 1651-0041

**Form Number:** N/A

**Abstract:** 19 CFR Section 19 sets forth requirements for bonded warehouses. This includes applications needed to establish a bonded warehouse; to receive free materials the warehouse; and to make alterations, suspensions, relocation or discontinuance of a bonded warehouse.

**Current Actions:** This submission is being submitted to extend the expiration date, without change to the burden hours.

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

**Affected Public:** Businesses, Institutions

**Estimated Number of Respondents:** 198

**Estimated Total Annual Responses:** 9,254

**Estimated Time Per Response:** 32 minutes

**Estimated Total Annual Burden Hours:** 4,910

Dated: February 27, 2008

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

**PROPOSED COLLECTION; COMMENT REQUEST****Application to Pay Off or Discharge Alien Crewman  
(Form I-408)**

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

**ACTION:** 60-Day Notice and request for comments; Extension of existing collection of information: 1651-0106

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burdens, U.S. Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application to Pay Off or Discharge Alien Crewman (Form I-408). This request for comment is being made pursuant to the Paperwork Reduction Act (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before May 5, 2008, to be assured of consideration.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to U.S. 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 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Application to Pay Off or Discharge Alien Crewman

**OMB Number:** 1651-0106

**Form Number:** I-408



**Abstract:** This form is used by owner, agent, consignee, master or commanding of any vessel or aircraft to obtain permission from CBP to pay off or discharge any alien crewman.

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

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

**Affected Public:** Businesses or other for-profit institutions

**Estimated Number of Respondents:** 85,000

**Estimated Time Per Respondent:** 25 minutes

**Estimated Total Annual Burden Hours:** 35,360

Dated: February 27, 2008

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

[Published in the Federal Register, March 4, 2008 (73 FR 11658)]

---

### **PROPOSED COLLECTION; COMMENT REQUEST Declaration for Unaccompanied Articles**

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

**ACTION:** 60-Day Notice and request for comments; Extension of existing collection of information: 1651-0030

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

**DATES:** Written comments should be received on or before May 5, 2008, to be assured of consideration.

**ADDRESS:** Direct all written comments to U.S. Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

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

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

**Title:** Declaration for Unaccompanied Articles

**OMB Number:** 1651-0030

**Form Number:** CBP Form-255

**Abstract:** This collection is completed by each arriving passenger for each parcel or container which is being sent from an Insular Possession at a late date. This declaration allows that traveler to claim their appropriate allowable exemption.

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

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

**Affected Public:** Businesses, Individuals, Institutions

**Estimated Number of Respondents:** 7,500

**Estimated Number of Responses:** 15,0000

**Estimated Time Per Response:** 5 minutes

**Estimated Total Annual Burden Hours:** 1,250

Dated: February 27, 2008

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

[Published in the Federal Register, March 4, 2008 (73 FR 11656)]

DEPARTMENT OF HOMELAND SECURITY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS.  
*Washington, DC, March 5, 2008*

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

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

**PROPOSED MODIFICATION OF RULING LETTERS AND  
REVOCATION OF TREATMENT RELATING TO THE  
TARIFF CLASSIFICATION OF CERTAIN FLATWARE**

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

**ACTION:** Notice of proposed modification of four tariff classification ruling letters and proposed revocation of treatment relating to the classification of certain flatware.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), this notice advises interested parties that Customs and Border Protection (CBP) intends to modify four ruling letters relating to the tariff classification of certain stainless steel flatware under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). CBP also 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 April 19, 2008.

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

**FOR FURTHER INFORMATION CONTACT:** Isaac D. Levy, Tariff Classification and Marking Branch: (202) 572-8794

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify two ruling letters pertaining to the tariff classification of certain stainless steel spoons with handles of stainless steel, plastic, and rubber. CBP also intends to modify two ruling letters pertaining to the tariff classification of certain stainless steel flatware with handles of stainless steel and plastic. Although in this notice, CBP is specifically referring to the modification of Headquarters Ruling Letter (HQ) 965032 (September 30, 2002), HQ 965794 (September 30, 2002), New York Ruling Letter (NY) A86065 (August 15, 1996), and NY B87880 (August 11, 1997) (Attachments A-D), 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 HQ 965032 and HQ 965794, CBP properly determined that stainless steel spoons with handles of stainless steel, plastic, and rubber were classified under subheading 8215.99.4060, HTSUSA. However, CBP incorrectly cited subheading 8215.99.45, HTSUS, as the appropriate classification provision for spoons with handles consisting of precious metal. Based upon our analysis of Section XV, Note 1(e), HTSUS, and Chapter 71, HTSUS, we have determined that spoons with handles consisting of precious metal are covered under heading 7114, HTSUS, which provides for "Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal: . . ." (subheadings 7114.11.30, 7114.11.40, 7114.19.00, and 7114.20.00, HTSUS).

Further, in NY A86065 and NY B87880, CBP properly determined that stainless steel flatware sets with handles consisting of stainless steel and plastic were classified under subheading 8215.20.0000, HTSUSA. However, CBP incorrectly classified such flatware pieces, if imported separately, under subheadings 8211.91.8060 (knives), 8215.99.2600 (forks), and 8215.99.4500 (spoons), HTSUSA. The correct classification provisions are subheadings 8211.91.5060 (knives), 8215.99.2000 (forks), and 8215.99.4060 (spoons), HTSUSA. As a result of the errant subheading provisions cited in NY A86065 and NY B87880, the duty rates provided in those decisions for flatware sets were also incorrect.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP intends to modify HQ 965032, HQ 965794, NY A86065, NY B87880, and any other ruling not specifically identified, to reflect the proper classification of the subject merchandise according to the analysis contained in proposed Headquarters Ruling Letters H004582, H004585, H004587, and H004589, set forth as Attachments E-H to this document. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical

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

**DATED:** February 29, 2008

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

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ 965032  
CLA-2 RR:CR:GC 965032 bc  
CATEGORY: Classification  
TARIFF NO.: 8215.99.4060

PHILIP KWOK  
LIFETIME HOAN CORPORATION  
*One Merrick Avenue*  
*Westbury, New York 11590-6601*

RE: Spoons; NY E86257 and NY E88103 revoked.

DEAR MR. KWOK:

This concerns NY E86257, dated September 9, 1999, and NY E88103, dated December 20, 1999, both issued to you by the Director, Customs National Commodity Specialist Division, New York, regarding the classification of certain spoons under the Harmonized Tariff Schedule of the United States (HTSUS).

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103-82, 107 Stat. 2057, 2186), a notice was published on August 28, 2002, in the *Customs Bulletin*, Vol. 36, No. 35, proposing to revoke NY E86257 and NY E88103. No comments were received during the comment period.

In NY E86257, Customs classified two types of spoons under subheading 8215.99.4500, HTSUS. In NY E88103, Customs reclassified the same spoons under subheading 8215.99.5000, HTSUS. The latter ruling was issued as a reconsideration of the former ruling. (Customs notes a typographical error in NY E88103 that shows subheading 8215.99.4060, HTSUS, in the "Tariff No." line of the header.) Customs has had the chance to review these rulings and finds them to be inconsistent with the HTSUS requirements for classification of such merchandise. It is now Customs position that the spoons at issue are properly classifiable under subheading 8215.99.4060, HTSUS. For the reasons stated below, this ruling revokes NY E86257 and NY E88103.

FACTS:

In NY E86257 and NY E88103, Customs described the two types of spoons there classified as a slotted spoon (Item #83364) and a basting spoon (Item #83715), both made of stainless steel with plastic handles. The handles also

have stainless steel sides and rubber non-slip grips (attached to the sides of the handle). In NY E86257, Customs classified both spoons in subheading 8215.99.4500, HTSUS, as: Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs, and similar kitchen or tableware; and base metal parts thereof: Other: Other: Spoons and ladles: Other. In NY E88103, Customs reclassified both spoons in subheading 8215.99.5000, HTSUS, as: Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs, and similar kitchen or tableware; and base metal parts thereof: Other: Other: Other (including parts).

Customs, as explained below, now believes that the spoons are classified under subheading 8215.99.4060, HTSUS, as spoons (not plated with precious metal), other than tablespoons, with nonmetal handles. (Individual spoons, forks, etc., that are plated with precious metal are classified under subheading 8215.91, HTSUS.)

ISSUE:

Whether the spoons are classifiable under subheading 8215.99.3000, 8215.99.3500, 8215.99.4060, 8215.99.4500, HTSUS, or 8215.99.5000, HTSUS?

LAW AND ANALYSIS:

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

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See Treasury Decision 89–80.

The relevant HTSUS provisions under consideration are as follows:

8215 Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs, and similar kitchen or tableware; and base metal parts thereof:

\* \* \*

8215.99 Other

\* \* \*

Spoons and ladles:

With stainless steel handles:

8215.99.30 Spoons valued under 25 cents each

8215.99.35 Other

8215.99.40 With base metal (except stainless steel) or non-metal handles

8215.99.45 Other

8215.99.50 Other (including parts)

Initially, classification in subheading 8215.99.5000, HTSUS, is readily disposed of by recognition of the fact that the spoons at issue are classifiable only under a subheading that provides for spoons, i.e., at the eight-digit level, 8215.99.30, 8215.99.35, 8215.99.40, or 8215.99.45, HTSUS. An article classified in subheading 8215.99.5000, HTSUS, must be something other than a spoon or a ladle, such as a butter-knife, sugar tong, or similar kitchen or tableware. Thus, we conclude that the spoons are not classifiable in subheading 8215.99.5000, HTSUS.

Determining which of the remaining subheadings provides for the classification of the spoons requires an examination of the composition of the spoon handles. Spoons with handles of stainless steel are classifiable, depending on their value, in subheadings 8215.99.30 or 8215.99.35, HTSUS. Spoons with handles of base metal (except stainless steel) or nonmetal are classifiable under subheading 8215.99.40, HTSUS. Spoons with handles consisting of something other than stainless steel, other base metals, or nonmetal, such as precious metal, are classifiable in subheading 8215.99.45, HTSUS. As the handles of the spoons consist of plastic, stainless steel, and rubber, application of GRI 3, applicable at the subheading level through application of GRI 6, is called for.

Before applying GRI 3, classification of the spoons under subheading 8215.99.30, HTSUS, can be disposed of without further consideration. The subheading provides for spoons with stainless steel handles valued under 25 cents each, and the spoons at issue are valued in excess of 25 cents each. This fact eliminates the subheading as a classification possibility and leaves subheading 8215.99.35, HTSUS, as the only possibility for classifying the spoons as spoons with stainless steel handles. Also, classification in subheading 8215.99.4500, HTSUS, can be disposed of without further consideration by recognition of the fact that this subheading provides for classification of spoons with handles made of materials other than stainless steel, other base metals, or nonmetals. As the handles of the spoons at issue consist of plastic (nonmetal), stainless steel, and rubber (nonmetal), the spoons cannot be classified in subheading 8215.99.4500, HTSUS. This leaves only subheadings 8215.99.35 and 8215.99.40, HTSUS, as classification possibilities.

Under GRI 3(a), in pertinent part, and GRI 6, classification is appropriate in the subheading that provides the most specific description of the article or component under consideration. In this case, the description referred to is the composition of the spoon handles which determines classification of the spoons at the eight-digit level. However, when two or more subheadings each refer to part only of the materials or substances contained in mixed or composite goods, those subheadings are to be regarded as equally specific, and consideration of the article or component for classification purposes will proceed under GRI 3(b). As subheading 8215.99.35, HTSUS, refers to stainless steel handles and subheading 8215.99.40, HTSUS, refers to handles of base metal (except stainless steel) and nonmetal (here, the plastic and rubber), these subheadings are regarded as equally specific, and classification of the spoons will be considered under GRI 3(b).

Under GRI 3(b), as applied to the facts of this case, classification is determined by ascertaining which of the materials of the spoon handles, the plas-



tic, stainless steel, or rubber, imparts to the spoon handle its essential character. Classification in subheading 8215.99.35, HTSUS, will follow if the essential character of the handles is imparted by the stainless steel component. Classification in subheading 8215.99.40, HTSUS, will follow if the essential character of the handles is imparted by the plastic or the rubber component.

Based on the description of the spoons provided by Lifetime Hoan Corporation, we find that the plastic and rubber materials are the primary materials of the spoon handles, as the plastic represents the essential form and substance of the handle and the rubber provides the important non-slip gripping feature. Thus, we conclude that the essential character of the handles is not imparted by the stainless steel component. As between the plastic and rubber components of the handles, both nonmetal materials, we submit that an essential character determination is not necessary, since classification will be the same under subheading 8215.99.40, HTSUS, regardless of which of these two components is used to impart essential character.

HOLDING:

NY E86257, dated September 9, 1999, and NY E88103, dated December 20, 1999, are hereby **REVOKED**.

Based on the foregoing analysis, the spoons with handles of plastic, rubber, and stainless steel are classifiable as spoons, other than tablespoons, with nonmetal handles in subheading 8215.99.4060, HTSUS.

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

Marvin Amernick for MYLES B. HARMON,  
*Acting Director,*  
*Commercial Rulings Division.*

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ 965794  
CLA-2 RR:CR:GC 965794 bc  
CATEGORY: Classification  
TARIFF No.: 8215.99.4060

ROBERT L. GARDENIER  
M.E. DEY & CO.  
5007 South Howell Avenue  
P.O. Box 37165  
Milwaukee, WI 53237-0165

RE: Spoons; NY D86420 revoked.

DEAR MR. GARDENIER:

This concerns NY D86420, issued to you on January 7, 1999, on behalf of Smith & Nephew Inc. Rehab Div., by the Director, Customs National Commodity Specialist Division, New York, regarding the classification of certain spoons under the Harmonized Tariff Schedule of the United States (HTSUS).

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–82, 107 Stat. 2057, 2186), a notice was published on August 28, 2002, in the Customs Bulletin, Vol. 36, No. 35, proposing to revoke NY D86420. No comments were received during the comment period.

As further explained below, in NY D86420, Customs classified the subject spoons under subheading 8215.99.4500, HTSUS, as spoons with handles made of something other than stainless steel, other base metals, or nonmetals. Customs has had the chance to review that ruling and finds it to be inconsistent with the HTSUS requirements for classification of such merchandise. It is now Customs position that the spoons at issue are properly classifiable under subheading 8215.99.4060, HTSUS, as spoons with non-metal handles. For the reasons stated below, this ruling revokes NY D86420.

**FACTS:**

In NY D86420, Customs described the spoons as made of base metal with large rubber grip handles, specially designed for people with physical disabilities or blindness. The samples submitted were for two styles: Style A703–205, the “Supergrip Bendable Utensil” and Style A703–200, the “Supergrip Utensil, Teaspoon.” Based on this description, Customs classified the spoons under subheading 8215.99.4500, HTSUS, which provides for: Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs, and similar kitchen or tableware; and base metal parts thereof: Other: Other: Spoons and ladles: Other.

**ISSUE:**

Whether the spoons are classifiable under subheading 8215.99.4500, HTSUS, or subheading 8215.99.4060, HTSUS?

**LAW AND ANALYSIS:**

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

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. The ENs, neither legally binding nor dispositive, provide a commentary on the scope of each heading of the HTSUS and are generally indicative of their proper interpretation. See Treasury Decision 89–80.

The relevant HTSUS provisions under consideration are as follows:

8215	Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs, and similar kitchen or tableware; and base metal parts thereof:	*	*	*
8215.99	Other	*	*	*

## Spoons and ladles:

## With stainless steel handles:

8215.99.30	Spoons valued under 25 cents each
8215.99.35	Other
8215.99.40	With base metal (except stainless steel) or non-metal handles
8215.99.45	Other
8215.99.50	Other (including parts)

Spoons (not plated with precious metal) are classifiable at the eight-digit level according to the composition of the handles. (Individual spoons, forks, etc., that are plated with precious metal are classifiable under subheading 8215.91, HTSUS.) Spoons with stainless steel handles are classifiable, depending on their value, under subheadings 8215.99.30 and 8215.99.35, HTSUS. Spoons with handles of base metal (except stainless steel) or non-metal are classifiable under subheading 8215.99.40, HTSUS. Spoons with handles consisting of something other than stainless steel, other base metals, or non-metal, such as precious metal, are classifiable in subheading 8215.99.45, HTSUS. As the spoons at issue have rubber handles and rubber is a nonmetal, they are not classifiable at the eight-digit level as spoons with handles of other than stainless steel, other base metals, or nonmetal in subheading 8215.99.45, HTSUS. Instead, they are classifiable as spoons with nonmetal handles (of rubber) in subheading 8215.99.40, HTSUS.

## HOLDING:

NY D86420, dated January 7, 1999, is hereby **REVOKED**.

The base metal spoons with rubber handles are classifiable as spoons, other than tablespoons, with nonmetal handles in subheading 8215.99.4060, HTSUS.

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

Marvin Amernick for MYLES B. HARMON,  
*Acting Director,*  
*Commercial Rulings Division.*

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
**NY A86065**  
August 15, 1996  
CLA-2-82:R:N4:119 A86065  
CATEGORY: Classification  
TARIFF NO.: 8215.20.0000; 8211.91.8060;  
8215.99.2600; 8215.99.4500

MS. DANA GURSTEL  
WILLIAMS-SONOMA, INC.  
3250 Van Ness Avenue  
San Francisco, CA 94109

RE: The tariff classification of a Flatware Set from China

DEAR MS. GURSTEL:

In your letter dated July 5, 1996 (received July 22 by this office), you requested a tariff classification ruling. The merchandise to be imported is a 5 piece flatware set put up for retail. Your letter gave the following breakdown:

Dinner Knife \$3.76 Dinner Fork \$3.428 Dinner Spoon \$3.428 Tea Spoon \$2.82 Salad Fork \$2.82 The flatware pieces are made of stainless steel with a black plastic insert on the front and back of the handle leaving the stainless steel sides visible. The knife handle has an overall length of 3 ½ inches while the plastic inserts are 2 ½ inches long, leaving ½ inch of steel visible at the top and bottom of the handle. There are also two polished steel rivets visible in the plastic area on the back and on the front. The handles of the forks and spoons are similarly constructed.

Since both the plastic and stainless steel components form significant parts of the handle, we cannot consider these flatware pieces to have either plastic or stainless steel handles but a combination of both materials. The merchandise will be classified accordingly.

If imported separately, the flatware pieces would be classified as follows:

Knife 8211.91.8060 0.4 cent each plus 5.6 percent Forks 8215.99.2600 0.3 cent each plus 3.9 percent Spoons 8215.99.4500 ----- 2.6 percent

The applicable subheading for the 5 piece flatware set will be 8215.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for spoons, forks, ladles, skimmers ... other sets of assorted articles. The set will be dutiable at the rate of duty applicable to that article in the set subject to the highest rate of duty. Since the rate of the knife is the highest, it will apply to the whole set. The complete tariff classification for the set will then be: 8215.20.0000 – 8211.91.8060. The specific rate (0.4 cent each) applies to each piece in the set. 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.

If you have any questions pertaining to this matter, please contact National Import Specialist Jacques Preston of this office at (212) 466-5488.

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

[ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
**NY B87880**  
August 11, 1997  
CLA-2-82:RR:NC:1:119 B87880  
CATEGORY: Classification  
TARIFF NO.: 8215.20.0000; 8211.91.8060;  
8215.99.2400; 8215.99.4500

MR. ROBERT MELE  
BARTHCO TRADE CONSULTANTS, INC.  
7575 Holstein Avenue  
Philadelphia, PA 19153

RE: The tariff classification of a Flatware Set from China

DEAR MR. MELE:

In your letter dated July 17, 1997, you requested a tariff classification ruling on behalf of Cambridge Silversmiths, Ltd., West Paterson, NJ.

The merchandise to be imported is a 5 piece flatware set put up for retail and consisting of the following: Dinner knife, dinner fork, dinner spoon, tea spoon and salad fork.

The flatware pieces are made of stainless steel with a brown plastic insert on the front and back of the handle leaving the stainless steel sides visible. The knife handle has an overall length of 3 ½ inches while the plastic inserts are 2 ½ inches long, leaving ½ inch of steel visible at the top and bottom of the handle. There are also two polished steel rivets visible in the plastic area on the back and on the front. The handles of the forks and spoons are similarly constructed.

Since both the plastic and stainless steel components form significant parts of the handle, we cannot consider these flatware pieces to have either plastic or stainless steel handles but a combination of both materials. The merchandise will be classified accordingly.

If imported separately, the flatware pieces would be classified as follows:  
Knife 8211.91.8060 0.3 cent each plus 5.4 percent Forks 8215.99.2400 0.3 cent each plus 4.5 percent Spoons 8215.99.4500 ----- 1.8 percent

The applicable subheading for the 5 piece flatware set will be 8215.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for spoons, forks, ladles, skimmers . . . other sets of assorted articles. The set will be dutiable at the rate of duty applicable to that article in the set subject to the highest rate of duty. Since the rate of the knife (0.3 cent each plus 5.4 percent) is the highest, it will apply to the whole set. The complete tariff classification for the set will then be: 8215.20.0000 -

8211.91.8060. The specific rate (0.3 cent each) applies to each piece in the set. 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.

If you have any questions pertaining to this matter, please contact National Import Specialist Jacques Preston of this office at (212) 466-5488.

The sample is being returned to your office as requested.

ROBERT B. SWIERUPSKI,  
*Chief,*  
*Metals and Machinery Branch National Commodity,*  
*Specialist Division.*

[ATTACHMENT E]

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H004582  
CLA-2 OT:RR:CTF:TCM H004582 IDL  
CATEGORY: Classification  
TARIFF NOS.: 7114.11.30; 7114.11.40;  
7114.19.00; 7114.20.00

LIFETIME HOAN CORPORATION  
*One Merrick Avenue*  
*Westbury, New York 11590-6601*

Re: Spoons; Modification of HQ 965032

DEAR SIR OR MADAM:

This letter concerns HQ 965032, dated September 30, 2002, issued to you by the U.S. Customs Service ("Customs") (now Customs and Border Protection, or CBP) regarding the classification of certain spoons under the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed HQ 965032 and find that it contains an error. Our discussion on this matter is set forth below.

**FACTS:**

In HQ 965032, Customs properly classified stainless steel spoons with handles of stainless steel, plastic, and rubber under subheading 8215.99.4060, HTSUS, which provides for "[s]poons . . . and similar kitchen or tableware; and base metal parts thereof: . . . Other: . . . Spoons and ladles: . . . With base metal (except stainless steel) or nonmetal handles . . . Other". However, Customs, in providing an example of one type of spoons that could be classified in subheading 8215.99.45, HTSUS (the provision for "[s]poons . . . and similar kitchen or tableware; and base metal parts thereof: . . . Other: . . . Spoons and ladles: . . . Other"), stated that "[s]poons with handles consisting of something other than stainless steel, other base metals, or nonmetal, such as precious metal, are classifiable in subheading 8215.99.45, HTSUS." [Emphasis added]

CBP now believes that the statement regarding the classification of spoons with handles of precious metal in subheading 8215.99.45, HTSUS, was incorrect, and that such goods are classifiable as goods of chapter 71, HTSUS.

**ISSUE:**

Whether spoons with handles of precious metal are properly classified under heading 7114, HTSUS, or heading 8215, HTSUS?

**LAW AND ANALYSIS:**

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that most goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. GRI 6 provides that “for legal purposes”, classification of goods in the subheading of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level.

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

The HTSUS provisions under consideration are as follows:

7114	Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal:  Of precious metal whether or not plated or clad with precious metal:
7114.11	Of silver, whether or not plated or clad with other precious metal:  * * *
	Spoons and ladles:
7114.11.30	With sterling silver handles
7114.11.40	Other  * * *
7114.19.00	Of other precious metal whether or not plated or clad with precious metal
7114.20.00	Of base metal clad with precious metal  * * *

...

8215 Spoons, forks, ladles, skimmers, cake-servers, fish-knives,  
butter- knives, sugar tongs, and similar kitchen or tableware;  
and base metal parts thereof:

\* \* \*

Other:

\* \* \*

8215.99 Other:

\* \* \*

Spoons and ladles:

\* \* \*

8215.99.45 Other

...

Section XV, Note 1(e), HTSUS, which covers chapters 72 through 83, HTSUS, provides that “[t]his section does not cover . . . [g]oods of chapter 71 (for example, precious metal alloys, base metal clad with precious metal, imitation jewelry)”. Further, the Chapter Notes to Chapter 71, HTSUS, (with parallel provisions included in the Explanatory Notes to Chapter 71) provide, in pertinent part, the following:

1. . . . [A]ll articles consisting wholly or partly:

...

(b) Of precious metal or of metal clad with precious metal, are to be classified in this chapter.

2. (a) Heading[] . . . 7114 . . . [does] not cover articles in which precious metal or metal clad with precious metal is present as minor constituents only, such as minor fittings or minor ornamentation (for example, monograms, ferrules and rims), and paragraph (b) of the foregoing note does not apply to such articles.

...

4. (a) The expression “precious metal” means silver, gold, and platinum.

The Explanatory Notes to Chapter 82, General section, provide that cutlery and other articles classified in headings 82.15 “may be fitted with minor trimmings of precious metal or metal clad with precious metal . . . ; if, however, they include other parts (e.g., handles or blades) of precious metal or metal clad with precious metal . . . , they are classified in **Chapter 71**.”

Upon our examination of the pertinent HTSUS and EN provisions to articles of Chapters 71 and 82, we find that spoons with handles of precious metal may be classified only in subheadings 7114.11.30, 7114.11.40, 7114.19.00, or 7114.20.00, HTSUS. Furthermore, we find that the provision erroneously referenced in HQ 965032, subheading 8215.99.45, HTSUS, covers spoons and ladles without handles, parallel to the provision for forks without handles under subheading 8215.99.22.

**HOLDING:**

By application of GRI 1, spoons with handles of precious metal are classified in heading 7114, HTSUS, as “Articles of goldsmiths’ or silversmiths’



wares and parts thereof, of precious metal or of metal clad with precious metal: . . .”, and provided for under subheadings 7114.11.30, 7114.11.40, 7114.19.00, and 7114.20.00, HTSUS.

**EFFECT ON OTHER RULINGS:**

HQ 965032 (September 30, 2002) is modified by striking from the ruling a sentence found within the second full paragraph of page 3, within the LAW AND ANALYSIS section, and which reads as follows:

Spoons with handles consisting of something other than stainless steel, other base metals, or nonmetal, such as precious metal, are classifiable in subheading 8215.99.45, HTSUS.

This modification does not otherwise affect any aspect of HQ 965032.

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

[ATTACHMENT F]

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H004585  
CLA-2 OT:RR:CTF:TCM H004585 IDL  
CATEGORY: Classification  
TARIFF NOS.: 7114.11.30; 7114.11.40;  
7114.19.00; 7114.20.00

M.E. DEY & Co.  
5007 South Howell Avenue  
P.O. Box 37165  
Milwaukee, Wisconsin 53237-0165

Re: Spoons; Modification of HQ 965794

DEAR SIR OR MADAM:

This letter concerns HQ 965794, dated September 30, 2002, issued to you by the U.S. Customs Service (“Customs”) (now Customs and Border Protection, or CBP) regarding the classification of certain spoons under the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed HQ 965794 and find that it contains an error. Our discussion on this matter is set forth below.

**FACTS:**

In HQ 965794, Customs properly classified stainless steel spoons with handles of stainless steel, plastic, and rubber under subheading 8215.99.4060, HTSUS, which provides for “[s]poons . . . and similar kitchen or tableware; and base metal parts thereof: . . . Other: . . . Spoons and ladles: . . . With base metal (except stainless steel) or nonmetal handles . . . Other”. However, Customs, in providing an example of one type of spoons that could be classified in subheading 8215.99.45, HTSUS (the provision for “[s]poons . . . and similar kitchen or tableware; and base metal parts thereof: . . . Other: . . . Spoons and ladles: . . . Other”), stated that “[s]poons with handles consisting of something other than stainless steel, other base

metals, or nonmetal, such as precious metal, are classifiable in subheading 8215.99.45, HTSUS.” [Emphasis added]

CBP now believes that the statement regarding the classification of spoons with handles of precious metal in subheading 8215.99.45, HTSUS, was incorrect, and that such goods are classifiable as goods of chapter 71, HTSUS.

**ISSUE:**

Whether spoons with handles of precious metal are properly classified under heading 7114, HTSUS, or heading 8215, HTSUS?

**LAW AND ANALYSIS:**

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that most goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. GRI 6 provides that “for legal purposes”, classification of goods in the subheading of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level.

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

The HTSUS provisions under consideration are as follows:

- 7114 Articles of goldsmiths’ or silversmiths’ wares and parts thereof, of precious metal or of metal clad with precious metal:
  - Of precious metal whether or not plated or clad with precious metal:
  - 7114.11 Of silver, whether or not plated or clad with other precious metal:
    - \* \* \*
    - Spoons and ladles:
    - 7114.11.30 With sterling silver handles
    - 7114.11.40 Other
      - \* \* \*
  - 7114.19.00 Of other precious metal whether or not plated or clad with precious metal
  - 7114.20.00 Of base metal clad with precious metal

	*       *       *
...	
8215	Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter- knives, sugar tongs, and similar kitchen or tableware; and base metal parts thereof:
	*       *       *
	Other:
	*       *       *
8215.99	Other:
	*       *       *
	Spoons and ladles:
	*       *       *
8215.99.45	Other

...  
Section XV, Note 1(e), HTSUS, which covers chapters 72 through 83, HTSUS, provides that “[t]his section does not cover . . . [g]oods of chapter 71 (for example, precious metal alloys, base metal clad with precious metal, imitation jewelry)”. Further, the Chapter Notes to Chapter 71, HTSUS, (with parallel provisions included in the Explanatory Notes to Chapter 71) provide, in pertinent part, the following:

1. . . . [A]ll articles consisting wholly or partly:  
...
- (b) Of precious metal or of metal clad with precious metal, are to be classified in this chapter.
2. (a) Heading[ ] . . . 7114 . . . [does] not cover articles in which precious metal or metal clad with precious metal is present as minor constituents only, such as minor fittings or minor ornamentation (for example, monograms, ferrules and rims), and paragraph (b) of the foregoing note does not apply to such articles.  
...
4. (a) The expression “precious metal” means silver, gold, and platinum.

The Explanatory Notes to Chapter 82, General section, provide that cutlery and other articles classified in headings 82.15 “may be fitted with minor trimmings of precious metal or metal clad with precious metal . . . ; if, however, they include other parts (e.g., handles or blades) of precious metal or metal clad with precious metal . . . , they are classified in **Chapter 71**.”

Upon our examination of the pertinent HTSUS and EN provisions to articles of Chapters 71 and 82, we find that spoons with handles of precious metal may be classified only in subheadings 7114.11.30, 7114.11.40, 7114.19.00, or 7114.20.00, HTSUS. Furthermore, we find that the provision erroneously referenced in HQ 965794, subheading 8215.99.45, HTSUS, covers spoons and ladles without handles, parallel to the provision for forks without handles under subheading 8215.99.22.

**HOLDING:**

By application of GRI 1, spoons with handles of precious metal are classified in heading 7114, HTSUS, as “Articles of goldsmiths’ or silversmiths’ wares and parts thereof, of precious metal or of metal clad with precious metal: . . .”, and provided for under subheadings 7114.11.30, 7114.11.40, 7114.19.00, and 7114.20.00, HTSUS.

**EFFECT ON OTHER RULINGS:**

HQ 965794 (September 30, 2002) is modified by striking from the ruling a sentence found within the final paragraph of the LAW AND ANALYSIS section, on page 3, and which reads as follows:

Spoons with handles consisting of something other than stainless steel, other base metals, or non-metal, such as precious metal, are classifiable in subheading 8215.99.45, HTSUS.

This modification does not otherwise affect any aspect of HQ 965794.

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

[ATTACHMENT G]

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H004587  
CLA-2 OT:RR:CTF:TCM H004587 IDL  
CATEGORY: Classification  
TARIFF NOS.: 8211.91.5060;  
8215.99.2000; 8215.99.4060

WILLIAMS-SONOMA, INC.  
3250 Van Ness Avenue  
San Francisco, California 94109

Re: Flatware; Modification of NY A86065

DEAR SIR OR MADAM:

This letter concerns NY A86065, dated August 15, 1996, issued to you by the U.S. Customs Service (“Customs”) (now Customs and Border Protection, or CBP) regarding the classification of certain flatware under the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed NY A86065 and find that it contains errors. Our discussion on this matter is set forth below.

**FACTS:**

In NY A86065, Customs described a 5-piece flatware set, as follows:

The flatware pieces are made of stainless steel with a black plastic insert on the front and back of the handle leaving the stainless steel sides visible. The knife handle has an overall length of 3 ½ inches while the plastic inserts are 2 ½ inches long, leaving ½ inch of steel visible at the top and bottom of the handle. There are also two polished steel rivets visible in the plastic area on the back and on the front. The handles of

the forks and spoons are similarly constructed. . . . [B]oth the plastic and stainless steel components form significant parts of the handle. . . .

Customs properly classified the flatware set under subheading 8215.20.0000, HTSUSA, which provides for “[s]poons, forks, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware; and base metal parts thereof: Other sets of assorted articles”.

However, Customs stated that the flatware pieces, consisting of handles of stainless steel and plastic, if imported separately, would be classified and dutiable as follows:

Knives—8211.91.8060 (0.4¢ each plus 5.6%);  
Forks—8215.99.2600 (0.3¢ each plus 3.9%);  
Spoons—8215.99.4500 (2.6%).

In addition, Customs determined that the duty rate for the flatware set was “0.4¢ each plus 5.6%”, based on the highest duty rate provided among the three subheadings listed above.

CBP now believes that it erred in its classification of the flatware pieces, if imported separately, and that such flatware pieces should be classified and dutiable as set forth below:

Knives—8211.91.5060 (0.7¢ each plus 3.7%);  
Forks—8215.99.2000 (0.5¢ each plus 3.2%);  
Spoons—8215.99.4060 (5%).

Further, CBP now believes that the duty rate for the set should be 5%, which is the highest rate provided among the individual pieces.

Samples of the subject goods were not available for examination.

#### **ISSUES:**

(1) What is the classification of the subject knives, forks, and spoons, imported separately, with handles of stainless steel and plastic under the HTSUS?

(2) What is the applicable duty rate for the flatware set?

#### **LAW AND ANALYSIS:**

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that most goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. GRI 6 provides that “for legal purposes”, classification of goods in the subheading of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level.

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

The HTSUS provisions under consideration are as follows:

8211 Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades and other base metal parts thereof:

\* \* \*

Other:

8211.91 Table knives having fixed blades:

\* \* \*

8211.91.50 Knives with rubber or plastic handles

\* \* \*

8211.91.5060 Other

8211.91.80 Other

\* \* \*

8211.91.8060 Other

...

8215 Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter- knives, sugar tongs and similar kitchen or tableware; and base metal parts thereof:

\* \* \*

Other:

\* \* \*

8215.99 Other:

Forks:

\* \* \*

8215.99.2000 With rubber or plastic handles

Other:

8215.99.2200 Without their handles

Other:

\* \* \*

8215.99.2600 Other

Spoons and ladles:

\* \* \*

8215.99.40 With base metal (except stainless steel) or nonmetal handles

\* \* \*

8215.99.4060 Other

8215.99.4500 Other

...

As stated above, samples of the goods are not available for examination. Therefore, our analysis of the classification of the goods is limited by the description of the goods, as provided in NY A86065 and the FACTS section, above. Inasmuch as the subject goods are made of stainless steel and plastic, no provision in the HTSUS describes the subject flatware in its entirety. The flatware is considered a composite good and cannot be classified according to GRI 1.

When goods cannot be classified by applying GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's are applied. GRI 2(a) applies to incomplete or unfinished and unassembled or disassembled goods. As the subject articles are imported finished and complete, GRI 2(a) does not apply. GRI 2(b) states, in pertinent part, 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. The classification of goods consisting of more than one material or substance shall be according to the principles of GRI 3.

GRI 3 states that when, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods 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, the competing HTSUS subheading provisions for the subject flatware, described as having handles of stainless steel and plastic, are equally specific in relation to one another. As we cannot classify these goods pursuant to GRI 3(a), we continue our analysis by examining 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.

Based on the description alone, we cannot now determine which materials (i.e., stainless steel or plastic) impart the essential character of the subject knives, forks, and spoons under 3(b). Therefore, we continue our analysis by examining GRI 3(c), which states:

When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

Accordingly, by application of GRI 3(c), the subject knives are classified in subheading 8211.91.5060, HTSUSA; the subject forks are classified in sub-

heading 8215.99.2000, HTSUSA; and the subject spoons are classified in subheading 8215.99.4060, HTSUSA. The duty rate applicable to the set is 5%, based on the highest rate applicable to the flatware pieces individually (i.e., the spoons).

**HOLDING:**

By application of GRI 3(c), the subject knives with handles of stainless steel and plastic are classified under subheading 8211.91.5060, HTSUSA, as “Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades and other base metal parts thereof: Other: Table knives having fixed blades: Knives with rubber or plastic handles: Other”; the subject forks with handles of stainless steel and plastic are classified under subheading 8215.99.2000, HTSUSA, as “Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware; and base metal parts thereof: Other: Other: Forks: With rubber or plastic handles”; and the subject spoons with handles of stainless steel and plastic are classified under subheading 8215.99.4060, HTSUSA, as “Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware; and base metal parts thereof: Other: Other: Spoons and ladles: With base metal (except stainless steel) or nonmetal handles: Other”.

The column one, general duty rate applicable to the flatware set is 5%. Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the Internet at [www.usits.gov/tata/hts/](http://www.usits.gov/tata/hts/).

**EFFECT ON OTHER RULINGS:**

NY A86065 (August 15, 1996) is hereby modified by changing the classification under the HTSUS of the flatware pieces, if imported separately, and by changing the applicable duty rate for the flatware set to the rate applicable to the spoons.

MYLES B. HARMON,

*Director,*

*Commercial and Trade Facilitation Division.*

[ATTACHMENT H]

HQ H004589

CLA-2 OT:RR:CTF:TCM H004589 IDL

CATEGORY: Classification

TARIFF NOS.: 8211.91.5060; 8215.99.2000;

8215.99.4060

BARTHCO TRADE CONSULTANTS, INC.  
7575 Holstein Avenue  
Philadelphia, Pennsylvania 19153

Re: Flatware; Modification of NY B87880

DEAR SIR OR MADAM:

This letter concerns NY B87880, dated August 11, 1997, issued to you by the U.S. Customs Service (“Customs”) (now Customs and Border Protection, or CBP) regarding the classification of certain flatware under the Harmo-



nized Tariff Schedule of the United States (HTSUS). We have reviewed NY B87880, and find that it contains errors. Our discussion on this matter is set forth below.

**FACTS:**

In NY B87880, Customs described a 5-piece flatware set, as follows:

The flatware pieces are made of stainless steel with a brown plastic insert on the front and back of the handle leaving the stainless steel sides visible. The knife handle has an overall length of 3 ½ inches while the plastic inserts are 2 ½ inches long, leaving ½ inch of steel visible at the top and bottom of the handle. There are also two polished steel rivets visible in the plastic area on the back and on the front. The handles of the forks and spoons are similarly constructed. . . . [B]oth the plastic and stainless steel components form significant parts of the handle . . . .

Customs properly classified the flatware set under subheading 8215.20.0000, HTSUSA, which provides for “[s]poons, forks, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware; and base metal parts thereof: Other sets of assorted articles”.

However, Customs stated that the flatware pieces, consisting of handles of stainless steel and plastic, if imported separately, would be classified and dutiable as follows:

Knives—8211.91.8060 (0.3¢ each plus 5.4%);  
Forks—8215.99.2400 (0.3¢ each plus 4.5%);  
Spoons—8215.99.4500 (1.8%).

In addition, Customs determined that the duty rate for the flatware set was “0.3¢ each plus 5.4%”, based on the highest duty rate provided among the three subheadings listed above.

CBP now believes that it erred in its classification of the flatware pieces, if imported separately, and that such flatware pieces should be classified and dutiable as set forth below:

Knives—8211.91.5060 (0.7¢ each plus 3.7%);  
Forks—8215.99.2000 (0.5¢ each plus 3.2%);  
Spoons—8215.99.4060 (5%).

Further, CBP now believes that the duty rate for the set should be 5%, which is the highest rate provided among the individual pieces.

Samples of the subject goods were not available for examination.

**ISSUES:**

(1) What is the classification of the subject knives, forks, and spoons, imported separately, with handles of stainless steel and plastic under the HTSUS?

(2) What is the applicable duty rate for the flatware set?

**LAW AND ANALYSIS:**

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that most goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. GRI 6 provides that “for legal purposes”, classification of goods in the subheading

of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable. GRI 6 thus incorporates GRIs 1 through 5 in classifying goods at the subheading level.

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

The HTSUS provisions under consideration are as follows:

8211 Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades and other base metal parts thereof:

\* \* \*

Other:

8211.91 Table knives having fixed blades:

\* \* \*

8211.91.50 Knives with rubber or plastic handles

\* \* \*

8211.91.5060 Other

8211.91.80 Other

\* \* \*

8211.91.8060 Other

...

8215 Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware; and base metal parts thereof:

\* \* \*

Other:

\* \* \*

8215.99 Other:

Forks:

\* \* \*

8215.99.2000 With rubber or plastic handles

Other:

8215.99.2200 Without their handles

	Other:
	*       *       *
8215.99.2600	Other
	Spoons and ladles:
	*       *       *
8215.99.40	With base metal (except stainless steel) or nonmetal handles
	*       *       *
8215.99.4060	Other
8215.99.4500	Other

...

As stated above, samples of the goods are not available for examination. Therefore, our analysis of the classification of the goods is limited by the description of the goods, as provided in NY B87880 and the FACTS section, above. Inasmuch as the subject goods are made of stainless steel and plastic, no provision in the HTSUS describes the subject flatware in its entirety. The flatware is considered a composite good and cannot be classified according to GRI 1.

When goods cannot be classified by applying GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's are applied. GRI 2(a) applies to incomplete or unfinished and unassembled or disassembled goods. As the subject articles are imported finished and complete, GRI 2(a) does not apply. GRI 2(b) states, in pertinent part, 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. The classification of goods consisting of more than one material or substance shall be according to the principles of GRI 3.

GRI 3 states that when, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods 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, the competing HTSUS subheading provisions for the subject flatware, described as having handles of stainless steel and plastic, are equally specific in relation to one another. As we cannot classify these goods pursuant to GRI 3(a), we continue our analysis by examining 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.

Based on the description alone, we cannot now determine which materials (i.e., stainless steel or plastic) impart the essential character of the subject knives, forks, and spoons under 3(b). Therefore, we continue our analysis by examining GRI 3(c), which states:

When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

Accordingly, by application of GRI 3(c), the subject knives are classified in subheading 8211.91.5060, HTSUSA; the subject forks are classified in subheading 8215.99.2000, HTSUSA; and the subject spoons are classified in subheading 8215.99.4060, HTSUSA. The duty rate applicable to the set is 5%, based on the highest rate applicable to the flatware pieces individually (i.e., the spoons).

**HOLDING:**

By application of GRI 3(c), the subject knives with handles of stainless steel and plastic are classified under subheading 8211.91.5060, HTSUSA, as “Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades and other base metal parts thereof: Other: Table knives having fixed blades: Knives with rubber or plastic handles: Other”; the subject forks with handles of stainless steel and plastic are classified under subheading 8215.99.2000, HTSUSA, as “Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware; and base metal parts thereof: Other: Other: Forks: With rubber or plastic handles”; and the subject spoons with handles of stainless steel and plastic are classified under subheading 8215.99.4060, HTSUSA, as “Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware; and base metal parts thereof: Other: Other: Spoons and ladles: With base metal (except stainless steel) or nonmetal handles: Other”.

The column one, general duty rate applicable to the flatware set is 5%. Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the Internet at [www.usits.gov/tata/hts/](http://www.usits.gov/tata/hts/).

**EFFECT ON OTHER RULINGS:**

NY B87880 (August 11, 1997) is hereby modified by changing the classification under the HTSUS of the flatware pieces, if imported separately, and by changing the applicable duty rate for the flatware set to the rate applicable to the spoons.

MYLES B. HARMON,

*Director,*

*Commercial and Trade Facilitation Division.*

**PROPOSED MODIFICATION OF A RULING LETTER AND  
PROPOSED REVOCATION OF TREATMENT RELATING TO  
THE TARIFF CLASSIFICATION OF CERTAIN METAL  
SCREW/PLASTIC ANCHOR KITS.**

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

**ACTION:** Notice of proposed modification of a tariff classification ruling letter and proposed revocation of treatment relating to the classification of certain metal screw/plastic anchor kits.

**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) intends to modify a ruling letter relating to the tariff classification of certain metal screw/plastic anchor kits # R021, # R187 and # T057, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). Article R021 consist of 10 plastic wall driller anchors packaged with 10 threaded metal screws. Article R1087 consists of 30 plastic wall anchors packaged with 30 metal screws. Article T057 consists of 12 plastic toggle anchors packaged with 12 threaded metal screws. CBP also 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 April 19, 2008.

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

**FOR FURTHER INFORMATION CONTACT:** John Rhea, Tariff Classification and Marking Branch: (202) 572-8785

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

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

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

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify one ruling letter pertaining to the tariff classification of three metal screw/plastic anchor kits consisting of anchors made of plastic and threaded screws made of metal. Although in this notice, CBP is specifically referring to the modification of New York Ruling Letter (“NY”) H86521 (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 one 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 the above mentioned ruling, CBP determined that the subject metal screw/plastic anchor kits were classifiable under subheading 3926.90.9880, HTSUS. Based upon our analysis of these kits, we have determined that the metal screw/plastic anchor kits are properly classified in subheading 7318.14.1060, HTSUS, which provides for: “Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles.

Of iron or steel: Self-tapping screws: Having shanks or threads with a diameter of less than 6 mm, Of stainless steel, Other . . . ”

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify NY H86521 and any other ruling not specifically identified, to reflect the proper classification of the metal screw/plastic anchor kits according to the analysis contained in proposed Headquarters Ruling Letter (“HQ”) H013681, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

**DATED:** February 29, 2008

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

Attachments:

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
NY H86521  
January 8, 2002  
CLA-2-39:RR:NC:SP:221 H86521  
CATEGORY: Classification  
TARIFF NO.: 3926.90.9880; 7318.19.0000;  
7806.00.0000

MR. RALPH SAUNDERS  
DERINGER LOGISTICS CONSULTING GROUP  
1 Lincoln Blvd., Suite 225  
Rouses Point, NY 12979

RE: The tariff classification of anchor/screw sets from Canada and Taiwan.

DEAR MR. SAUNDERS:

In your letter dated December 5, 2001, on behalf of Cobra Anchors Co., Ltd., Canada, you requested a tariff classification ruling.

Five samples were provided with your letter. All the samples consist of anchors packaged with screws to mount articles on walls. All will be classified as sets. Article SKU #R187 consists of 30 plastic wall anchors packaged with 30 metal screws. The wall anchors are made in Canada; the metal screws in Taiwan. The essential character is imparted by the plastic wall anchors.

Article SKU #R021 consists of 10 nylon plastic wall driller anchors packaged with 10 metal screws. The wall driller anchors are made in Canada; the metal screws in Taiwan. The essential character is imparted by the plastic wall driller anchors.

Article SKU #T057 consists of 12 nylon toggle anchors packaged with 12 metal screws. The toggle anchors are made in Canada; the plastic screws in

Taiwan. The essential character is imparted by the plastic toggle anchors.

Article SKU #R211 consists of 20 lead anchors packaged with 20 metal screws. The lead anchors are made in Canada; the metal screws are made in Taiwan. The essential character is imparted by the lead anchors.

Article SKU #V133 consists of 20 steel hollow wall anchors packaged with 20 metal screws. The hollow wall anchors and metal screws are made in Taiwan. The essential character is imparted by the hollow wall anchors.

The applicable subheading for the plastic screw anchors with metal screws (SKU #R187), the nylon toggle anchors with metal screws (SKU #T057) and the plastic wall driller anchors with metal screws (SKU #R021) will be 3926.90.9880, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of plastics, other. The general rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the steel hollow wall anchors with metal screws (SKU #V133) will be 7318.19.0000, HTS, which provides for other threaded articles of iron or steel. The general rate of duty will be 5.7 percent ad valorem.

The applicable subheading for the lead anchors with metal screws (SKU #R211) will be 7806.00.0000, HTS, which provides for other articles of lead: other. The general rate of duty will be 3 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Joan Mazzola at 646-733-3023.

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

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
**HQ H013681**  
**CLA-2 OT:RR:CTF:TCM H013681 JER**  
**CATEGORY:** Classification  
**TARIFF NO.:** 7318.14.1060

RALPH SAUNDERS  
DERINGER LOGISTICS CONSULTING GROUP  
1 Lincoln Blvd., Suite 225  
Rouses Point, NY 12979

**RE:** Proposed Modification of NY H86521; 3926.90.9880

DEAR MR. SAUNDERS:

On January 8, 2002, U.S. Customs and Border Protection (CBP) issued New York Ruling Letter ("NY") H86521 to you on behalf of Cobra Anchors Co., Ltd., classifying certain metal screw/plastic anchor sets in heading 3926 of the Harmonized Tariff Schedule of the United States (HTSUS). After reviewing NY H86521, we have found that ruling to be in error as it pertains



to article SKU #R021, article SKU # R187 and article SKU #T057. For the reasons set forth in this ruling, we are modifying NY H86521.

**FACTS:**

The merchandise at issue includes three screw/anchor sets comprised of varying sizes of plastic anchors and metal screws. These sets are compartmentalized in plastic storage cases which organize matching sizes and quantities of anchor and screw combinations. The items are used to fasten or mount articles to hollow walls (dry wall) or solid walls by inserting a metal screw inside the anchor sleeve to form a mounting unit. Article SKU #R021 consisted of 10 nylon plastic wall driller anchors packaged with 10 metal screws; Article SKU #T057 consisted of 12 nylon toggle anchors packaged with 12 metal screws; Article R187 consisted of 30 plastic wall anchors packaged with 30 metal screws; Article SKU #R211 consisted of 20 lead anchors packaged with 20 metal screws; Article SKU #V133 consisted of 20 steel hollow wall anchors packaged with 20 metal screws. Only R021, R187 and T057 are the topic of this discussion.

**ISSUE:**

Whether classification of the metal screw/plastic anchor kits is properly under heading 7318, HTSUS, or alternatively, heading 3926, HTSUS.

**LAW AND ANALYSIS:**

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

GRI 3 provides, in pertinent part, that when goods are *prima facie*, classifiable under two or more headings, classification shall be effected by the following: (a) [t]he heading which provides the most specific heading shall be preferred to headings providing a more general description. However, . . . when two or more headings each refer to part only of the items in a set, those headings are to be regarded as equally specific, even if one of them gives a more complete or precise description of the goods. (b) . . . 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 . . . (c) [w]hen goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

The HTSUS provisions under consideration are as follows:

3926	Other articles of plastics and articles of other materials of heading 3901 to 3914:
3926.90	Other:
	* * *
3826.90.99	Other
3826.90.9980	Other

7318 Screws, bolts, nuts, coach screws, screw hooks, rivets, cot-  
 ters, cotter pins, washers (including spring washers) and  
 similar articles, of iron or steel:

Threaded articles:

7318.11.0000 Coach screws

\* \* \*

7318.14 Self-tapping screws

7314.14.10 Having shanks or threads with a diameter of less than 6  
 mm

7318.14.1030 Of stainless steel

7318.14.1060 Other

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89–80.

Explanatory Note X to GRI 3(b) provides in part that:

[t]he term “goods put up in sets for retail sale” shall be taken to mean goods which: (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings; . . . (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking . . .

The merchandise at issue clearly satisfies the above criteria of a “set.” Each of the subject kits consist of plastic anchors packaged with metal screws, each individual item being classifiable in two different headings under the HTSUS. If imported separately, the plastic anchor would be classifiable in heading 3926, HTSUS, while the metal screw would fall under heading 7318, HTSUS. The items are sold together to carry out the specific activity of wall mounting or fastening and are put up in a manner suitable for sale directly to users without repacking.

We find that neither component of the subject screw/anchor kit imparts the essential character of the subject merchandise. In hollow wall (i.e. drywall) or solid materials (e.g. brick, concrete or plaster) applications, the plastic anchor enhances the capacity of the combined product’s ability to support, mount or fasten articles to a wall surface. Among fasteners generally, there are several types of plastic anchors, Conical Anchors, Split-Ribbed, Expansion Anchors (used in solid wall applications), Hollow-wall anchors (used in drywall applications), Wall Drillers or Threaded Drywall anchors (which have a pointed tip and are threaded) and Plastic Toggle anchors a.k.a. Nylon Wedge anchors (which provides the strongest support for drywall and ceiling mounting). Item R021 is a Wall Driller anchor which has a sharp pointed tip that is capable of piercing drywall surfaces. Similarly, item R187 is a standard Conical or Expansion anchor. Finally, item T057 is a Plastic Toggle anchor which is far less expensive than a Metal Toggle Anchor, but provides twice the amount of strength as a plastic expansion anchor.

According to our research, it is because of the (plastic) anchor that these items are capable of supporting heavily weighted items which are mounted or fastened to a wall. Generally, the plastic anchor expands or grips against the surface as the screw is tightened.<sup>1</sup> As such, the primary retail lure and uniqueness of the set lie in the plastic anchor.<sup>2</sup> However, standing alone, the plastic anchor is virtually useless. Without the metal screw, the plastic anchor is unable to mount, fasten or support a wall hanging or other article. In short, the anchor alone cannot carry out the specific activity or function which makes the item a screw/anchor kit.

The Explanatory Note VII to GRI 3(b) states that:

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 HQ 085356, dated November 20, 1989, we considered the essential character of a School Supply Kit which consisted of drawing instruments such as a pantograph, stencils and protractors. In that case we found that none of the items imparted the essential character of the kit and that each item appeared to merit equal consideration. Likewise, in HQ 958086, dated May 20, 1996, concerning an Activity Set for Children, we found that while the role of one item predominated over other items, that the activity of the predominant item could not be performed without the presence of the less substantial items. Accordingly, we classified the Activity Set for Children pursuant to GRI 3(c).

GRI 3 (c) provides that: [w]hen goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. In drywall or solid wall applications, the plastic anchor provides the distinguishing feature of the set. The anchor provides the strength and stability which reinforces the combined unit's ability to support heavily weighted items mounted on drywall or solid wall surfaces. Yet, the role of the anchor could not be accomplished in the absence of the metal screw. Although the effectiveness of the combined unit is greatly reduced without the anchor, standing alone the metal screw has the independent capacity to mount or fasten articles to a wall or ceiling. In that sense, the metal screw imparts a significant feature relative to the use of the goods. Fundamentally, the screw affords the merchandise the capacity to mount or fasten items to walls or other surfaces. As a result, the fundamental role of the metal screw is the equivalent of the role which is imparted by the plastic anchor.

Accordingly, we find that neither the plastic anchor nor the metal screw impart the essential character of the set and therefore classify the set according to GRI 3 (c). See HQ 953095, dated April 15, 1993, NY I83699, dated June 25, 2002, NY I84859, dated August 8, 2002 and I8799, dated September 26, 2002 (these rulings reflect CBP's consistent classification of substan-

---

<sup>1</sup> See, *You Can Hang Almost Anything With Wall Anchors*, at [www.naturalhandyman.com](http://www.naturalhandyman.com).

<sup>2</sup> Similar sets are often referred to as a Screw Assortment Set yet are most often marketed as a Plastic Anchor Kit. See, *Plastic Anchors*, at [www.acehardwareoutlet.com](http://www.acehardwareoutlet.com); [www.HomeDepot.com](http://www.HomeDepot.com).

tially similar screw/anchor kits under heading 7318, HTSUS). Therefore, we find that the correct classification of R021, R187 and T057 is under heading 7318, HTSUS, as, “[s]crews, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles of iron or steel.”

**HOLDING:**

By application of GRI 3(c), R021, R187 and T057 are classified in heading 7318, HTSUS. Specifically, they are provided for in subheading 7318.14.1060, HTSUS, which provides for: Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles. Of iron or steel: Self-tapping screws: Having shanks or threads with a diameter of less than 6 mm, Of stainless steel, Other. The column one, general rate of duty is 6.2% percent *ad valorem*.

**EFFECT ON OTHER RULINGS:**

NY H86521, dated January 8, 2002, is hereby modified.

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

**PROPOSED MODIFICATION OF RULING LETTER AND  
REVOCATION OF TREATMENT RELATING TO THE  
TARIFF CLASSIFICATION OF CERTAIN KNIT SLEEVE  
PROTECTORS**

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

**ACTION:** Notice of proposed revocation of a ruling letter and treatment relating to tariff classification of knit sleeve protectors.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) intends to modify one ruling letter relating to the tariff classification of knit sleeve protectors under the Harmonized Tariff Schedule of the United States (HTSUS). CBP also intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

**DATE:** Comments must be received on or before April 19, 2008.

**ADDRESS:** Written comments are to be addressed to 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 Customs and Border Protection, 799 9<sup>th</sup> Street N.W., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Greg Connor, Tariff Classification and Marking Branch: (202) 572-8749

**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, as amended (19 U.S.C. 1625 (c)(1)), this notice advises interested parties that CBP intends to modify a ruling letter pertaining to the tariff classification of knit sleeve protectors. Although in this notice, CBP is specifically referring to the modification of New York Ruling Letter (NY) C88292, dated June 8, 1998 (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 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, as amended (19 U.S.C. 1625 (c)(2)), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transac-

tions. 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 notice of this proposed action.

In NY C88292, set forth in Attachment A to this document, CBP determined that a knit sleeve protector was classified in heading 6307, HTSUS, specifically subheading 6307.90.9989, HTSUSA (1998), as "[o]ther made up articles, including dress patterns: Other: Other . . . Other: Other." It is now CBP's position that the knit sleeve protector is properly classified in heading 6117, HTSUS, specifically subheading 6117.80.9540, HTSUSA, as "[o]ther made up clothing accessories, knitted or crocheted; knitted or crocheted parts of garments or of clothing accessories: Other accessories: Other: Other . . . Of man-made fibers: Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify NY C88292 and revoke or modify any other ruling not specifically identified, in order to reflect the proper classification of the knit sleeve protector according to the analysis contained in proposed Headquarters Ruling Letter H006230, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

**DATED:** February 29, 2008

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

Attachments

## [ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
NY C88292  
June 8, 1998  
CLA-2-63:RR:NC:TA:354 C88292  
CATEGORY: Classification  
TARIFF NO.: 6116.93.8800; 6307.90.9989

MR. CHRISTOPHER J. RYAN  
LAKELAND INDUSTRIES, INC.  
711-2 Koehler Avenue  
Ronkonkoma, New York 11779-7410

RE: The tariff classification and status under the North American Free Trade Agreement (NAFTA), of gloves and an arm protector from Mexico; Article 509

DEAR MR. RYAN:

In your letter dated May 20, 1998, you requested a ruling on the classification and status of apparel from Mexico under the NAFTA.

Two samples were submitted for classification. Model 2300 is a string knit glove constructed of kevlar yarn with a ribbed knit elasticized cuff.

The 4000 series knit sleeve is a snug and rugged arm protector constructed of knitted kevlar material. The arm protectors are available with thumbhole and thumbstitch options in lengths up to 31 inches.

You have indicated that the fiber and yarns for both articles will be made in United States, followed by knitting and production in Mexico.

The applicable subheading Model 2300 will be 6116.93.8800, Harmonized Tariff Schedule of the United States (HTSUSA), which provides for Gloves, mittens and mitts, knitted or crocheted:

other: of synthetic fibers: other: other: without fourchettes. The duty rate will be 19.3 percent ad valorem. The applicable subheading for 4000 series knit sleeve will be 6307.90.9989, HTS, which provides for Other made up articles, including dress patterns: other: other . . . other: other. The general rate of duty will be 7 percent ad valorem.

All styles, being made entirely in the territories using materials which themselves were originating, will satisfy the requirements of HTSUSA General Note 12(b)(iii). The glove is entitled to a 3.1 percent rate of duty and the arm protector is entitled to a free rate of duty under the NAFTA upon compliance with all applicable laws, regulations, and agreements.

In your letter you also questioned the tariff classification of a finished garment made of woven fabric (HTS 5407.61.9945). Please be advised that in order to classify any wearing apparel item, a sample must be submitted for review. This ruling is being issued under the provisions of Part 181 of the Customs Regulations (19 C.F.R. 181).

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 Brian Burtnik at 212-466-5880.

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

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
**HQ H006230**  
**CLA-2 OT:RR:CTF:TCM H006230 GC**  
**CATEGORY:** Classification  
**TARIFF NO.:** 6117.80.9540, HTSUSA

MR. CHRISTOPHER J. RYAN  
*Lakeland Industries, Inc.*  
*711-2 Koehler Avenue*  
*Ronkonkoma, New York 11779-7410*

**RE:** Tariff classification of knit sleeve protectors; modification of NY C88292

DEAR MR. RYAN:

In New York Ruling Letter (NY) C88292, National Commodity Specialist Division, Customs and Border Protection (CBP), issued to you on June 8, 1998, a knit sleeve (sleeve protector) was classified as an “other made up article” under heading 6307 of the Harmonized Tariff Schedule of the United States (HTSUS). NY C88292 also determined the status of the subject merchandise under the North American Free Trade Agreement (NAFTA). We have since reviewed NY C88292 and find it to be in error.

**FACTS:**

NY C88292 covers two items: Model 2300 string knit glove, and Model 4000 series knit sleeve. This decision concerns only the Model 4000 series knit sleeve (also known as a sleeve protector). The sleeve protector is a snug and rugged arm protector constructed of knitted Kevlar(r) material. The fiber and yarns used in the construction of the sleeve protector are made in the United States, and knitting and production of the merchandise takes place in Mexico. By virtue of HTSUS General Note 12(b)(iii), the sleeve protector was entitled to a free rate of duty under the NAFTA upon compliance with all applicable laws, regulations, and agreements.

**ISSUE:**

What is the proper classification under the HTSUS for the knit sleeve protector?

**LAW AND ANALYSIS:**

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. The 1998 HTSUS provisions under consideration are as follows:

6117 Other made up clothing accessories, knitted or crocheted; knitted or crocheted parts of garments or of clothing accessories:

\* \* \*

6117.80 Other accessories:



		*	*	*
	Other:			
		*	*	*
6117.80.95	Other . . .			
		*	*	*
6307	Other made up articles, including dress patterns:			
		*	*	*
6307.90	Other:			
		*	*	*
	Other:			
		*	*	*
6307.90.98	Other . . .			

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

Legal Note 2 to Chapter 63, HTSUS, states that subchapter 1 (which includes heading 6307, HTSUS) does not cover goods of chapters 56 to 62, HTSUS. In addition, the ENs note that heading 6307 covers only made up articles of any textile material which are not included more specifically elsewhere in the tariff schedule. Thus, the principal issue in this case is whether the subject merchandise is excluded from Chapter 63, HTSUS, by virtue of being more specifically provided for in heading 6117, HTSUS.

The rationale behind classifying the sleeve protector within heading 6307, HTSUS, was based on the fact that the product is called a sleeve, which can be part of a made up article, as opposed to the product's function as a clothing accessory under heading 6117, HTSUS. While the term "accessory" is not defined in the tariff schedule, Merriam-Webster's Collegiate Dictionary Online, (2008), defines "accessory" as a thing of secondary or subordinate importance or an object or device not essential in itself but adding to the beauty, convenience, or effectiveness of something else. The subject sleeve protectors are indeed functional articles that augment a garment (in this case, either a long-sleeve or short-sleeve shirt) to provide the user with a protective barrier between the bare arms or shirt sleeves and the surrounding environment. The fact that the sleeve protectors add to the effectiveness of clothing with respect to protecting the arms of the user indicates that is provided for in heading 6117. Moreover, the inclusion of "sleeve protectors" among the exemplars listed in the EN 61.17 indicates that the subject merchandise falls within heading 6117, HTSUS.

This conclusion corresponds with CBP's treatment of various similar items. In Headquarters Ruling Letter (HQ) 965135, dated April 15, 2002, CBP held that non-woven disposable sleeve protectors are classifiable under

heading 6217, HTSUS, as clothing accessories. In its discussion of the sleeve protectors' status as clothing accessories, HQ 965135 noted that the sleeve protectors augment the ability of shirts, both long-sleeve and short-sleeve, to protect the arms of the user. Depending on the material comprising the sleeve protectors, they can help to protect the wearer from heat, chemicals or a variety of other dangers. The merchandise at issue here enhances the ability of a long-sleeved shirt to protect the wearer from abrasions or cuts, thus serving as clothing accessories covered in heading 6117, HTSUS. *See also* HQ 961108, dated September 2, 1999, NY G88129, dated March 21, 2001, and NY J83654, dated May 6, 2003.

**HOLDING:**

By application of GRI 1, the 4000 series knit sleeve is classifiable under heading 6117, HTSUS, specifically subheading 6117.80.9540, HTSUSA, which provides for: “[o]ther made up clothing accessories, knitted or crocheted; knitted or crocheted parts of garments or of clothing accessories: Other accessories: Other: Other . . . Of man-made fibers: Other.” The column one, general rate of duty is 14.6 percent *ad valorem*.

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

**EFFECT ON OTHER RULINGS:**

NY C88292, dated June 8, 1998 is hereby modified.

MYLES B. HARMON,

*Director,*

*Commercial and Trade Facilitation Division.*

**GENERAL NOTICE**

**PROPOSED MODIFICATION OF RULING LETTER AND  
REVOCAION OF TREATMENT RELATING TO THE  
TARIFF CLASSIFICATION OF PHOTO ALBUMS**

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

**ACTION:** Notice of proposed modification of a tariff classification ruling letter and revocation of any treatment relating to the classification of photo albums.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) intends to modify one ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of a photo album consisting of paper pages with plastic overlays permanently bound in a cover made of cloth

wrapped paperboard. Similarly, CBP proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

**DATE:** Comments must be received on or before April 19, 2008.

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

**FOR FURTHER INFORMATION CONTACT:** Beth Safeer, Tariff Classification and Marking Branch, at (202) 572-8825.

**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 to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify one ruling letter relating to the tariff classification of a photo album. Although in this notice CBP is specifically referring to the modification of New York

Ruling Letter (NY) M80420, dated February 24, 2006, (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 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 merchandise. Any person involved with substantially identical merchandise should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical merchandise 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 M80420, CBP classified a 5" x 6 ½" x ¾" album with a cover made of cloth-wrapped paperboard and paper pages incorporating clear plastic overlays under heading 4820.50.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for albums for samples or for collections, of paper or paperboard. For the reasons set forth in proposed HQ H019477 (Attachment B), we find that the photo album is properly classified under heading 3926.90.4800, HTSUSA, as "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Photo albums."

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify NY M80420 and to modify or revoke any 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 HQ H019477. 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 29, 2008

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

Attachments

## [ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
NY M80420  
February 24, 2006  
CLA-2-48:RR:NC:SP:234 M80420  
CATEGORY: Classification  
TARIFF NO.: 4820.50.0000; 6307.90.9889

MR. KARL R. KANE  
MYX, INC.  
300 Broadway Street, Suite #30  
San Francisco, CA 94133

RE: The tariff classification of a photo album and a storage box from China.

DEAR MR. KANE:

In your letter dated January 16, 2006, together with a follow-up submission received here on February 10, 2006, you requested a tariff classification ruling.

A sample identified as a "MYX Album and Photo Box Gift Pack" (Item # 979511040) was submitted for our examination. The sample "gift pack" consists of two items, a photo album and a photo storage box, temporarily held together by means of a satin ribbon that has been wound around them and tied into a bow. The two items appear to be suitable for independent use, and for tariff purposes will be classified separately.

The 5" x 6 1/2" x 3/4" album consists of numerous paper pages permanently bound within a cover made of cloth-wrapped paperboard. The pages incorporate clear plastic overlays under which photos may be inserted for storage and display. The applicable subheading for the album will be 4820.50.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for albums for samples or for collections, of paper or paperboard. The rate of duty will be Free.

The 5 1/2" x 7" x 5"(H) photo storage box is made of paperboard but is covered with textile fabric on its exterior. The box features a removable lid. In addition, each of its four side panels incorporates a clear plastic window, behind which a photo may be inserted for display.

The applicable subheading for the photo storage box will be 6307.90.9889, HTSUS, which provides for other (non-enumerated) made up textile articles. The rate of duty will be 7%.

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 Carl Abramowitz at 646-733-3037.

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

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H019477  
CLA-2 OT:RR:CTF:TCM H019477 BAS  
CATEGORY: Classification  
TARIFF NO.: 3926.90.4800

KARL R. KANE  
300 Broadway Street  
Suite #30  
San Francisco, CA 94133

RE: Classification of a Photo Album; NY M80420, dated February 24, 2006, modified

DEAR MR. KANE:

This is in reference to New York Ruling Letter (NY) M80420, dated February 24, 2006, which classified, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), certain photo albums. In that ruling, the photo albums at issue were classified in subheading 4820.50.0000, HTSUSA, which provides for albums for samples or for collections, of paper or paperboard. We have reviewed NY M80420 and determined the classification provided therein is incorrect. This ruling letter modifies NY M80420.

**FACTS:**

The photo album at issue is a 5" x 6 1/2" x 3/4" album consisting of numerous paper pages permanently bound within a cover made of cloth-wrapped paperboard. The pages incorporate clear plastic overlays/sleeves under which photos may be inserted for storage and display.

**ISSUE:**

Is the subject merchandise classifiable in subheading 4820.50.0000, HTSUS, which provides for albums for samples or for collections, of paper or paperboard or under subheading 3926.90.4800, HTSUSA, which provides for "Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Photo albums"?

**LAW AND ANALYSIS:**

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

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. Customs and Border Protection (CBP) believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The photo album at issue consists of separate components that are each classifiable under different headings. The separate components are the pa-

perboard album wrapped with cloth, paper pages and clear plastic overlays. As a result, the merchandise cannot be classified under GRI 1, and CBP must apply the remaining GRIs. When “goods are, prima facie, classifiable under two or more headings, then classification” shall be made pursuant to GRI 3, which states the following:

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods 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.
- (b) 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.
- (c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

In this case, since two or more headings refer to part only of the materials of which the photo album is made, the photo album must be classified according to its essential character. With respect to determining the essential character of this composite good, the EN to GRI 3(b) provides the following guidance:

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

There have been several court decisions on “essential character” for purposes of GRI 3(b). These cases have looked to the role of the constituent materials or components in relation to the use of the goods to determine essential character. See, *Better Home Plastics Corp. v. United States*, 916 F. Supp. 1265 (CIT 1996), *affirmed* 119 F. 3d 969 (Fed. Cir. 1997); *Mita Copystar America, Inc. v. United States*, 966 F. Supp. 1245 (CIT 1997), *motion for rehearing and reconsideration denied*, 994 F. Supp. 393 (CIT 1998), and *Vista International Packaging co., v. United States*, 19 CIT 868, 890 F. Supp. 1095 (1995). See also, *Pillowtex Corp. v. United States*, 98–1227, CAFC, 171 F.3d 1370; 1999 U.S. App. LEXIS 4371.

The essential character of the subject merchandise can be determined by comparing each component as it relates to the use of the product. In this instance, the predominate use of the plastic sleeves in displaying and protecting photos and pictures imparts the essential character.

It has been the practice of CBP to classify photograph albums according to the material of the pages and not the material of the cover or inserts. See HQ H005082, dated March 29, 2007; HQ W968250, dated August 3, 2006; NY M81024, dated April 3, 2006; NY L87797, dated October 24, 2005; NY L84420, dated May 23, 2005; NY H87735, dated February 21, 2002; NY

I85926, dated September 30, 2002; NY I84082, dated August 6, 2002; NY H82195, dated July 9, 2001; NY F87436, dated June 15, 2000; and HQ 951845, dated August 20, 1992.

Prior to 2007, CBP consistently classified similar merchandise, scrapbook albums, in heading 3924, HTSUS. See HQ H005082, dated March 29, 2007; HQ W968250, dated August 3, 2006; NY H87735, dated February 21, 2002; and, NY L84420, dated May 23, 2005. CBP has also regularly classified photo albums by the merchandise's plastic sleeve. See NY M81024, dated April 3, 2006; NY L87797, dated October 24, 2005; NY I85926, dated September 30, 2002; NY I84082, dated August 6, 2002; and NY H82195, dated July 9, 2001. Specifically, in HQ 951845, dated August 20, 1992, CBP held that a photo album with paper inserts, plastic filler pages, and an outer surface composed of cellular plastics with a textile fabric reinforcement was correctly classified in heading 3924, HTSUS. Accordingly, the instant merchandise should be classified according to the plastic sleeves.

Pursuant to Title 19, United States Code, Section 3005, the Harmonized Tariff Schedule of the United States was amended to reflect changes recommended by the World Customs Organization. The proclaimed changes are effective for goods entered or withdrawn from warehouse for consumption on or after February 3, 2007. See Presidential Proclamation 8097, 72 FR 453, Volume 72, No. 2 (January 4, 2007). As part of the proclaimed changes, Additional U.S. Note 5 to Chapter 39, HTSUS, was added, which states: “[f]or the purposes of heading 3924, the expression ‘household articles’ does not include photo albums (see subheading 3926.90.48)”. As of the February 3, 2007 amendment to the HTSUS, photo albums are specifically provided for in subheading 3926.90.48, HTSUS. In accordance with the rationale of the previous rulings in addition to the 2007 HTSUS amendment, the photo album at issue is classified in heading 3926, HTSUS. These amendments bring the HTSUS in conformity with the HSC decision to classify photograph albums with plastic sleeves as other articles of plastics in subheading 3926.90.4800, HTSUS.

Notably, the only instances where CBP has classified scrapbook albums in heading 4820, HTSUS, is when the subject merchandise did not have a plastic sleeve at all. See NY M82265, dated May 19, 2006; NY K88852, dated September 9, 2004; and NY J87084, dated August 25, 2003. In the instant case, the merchandise is more like the photo and scrapbook albums classified in Chapter 39, HTSUS, than the scrapbooks classified in heading 4820, HTSUS, because the subject merchandise has plastic sleeves.

**HOLDING:**

The proper classification for the photo album at issue is subheading 3926.90.4800, HTSUSA, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Photo albums.” The column one, general rate of duty is 3.4 percent ad valorem.

**EFFECT ON OTHER RULINGS:**

Accordingly, NY M80420 is modified to reflect the above classification.

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

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