

# U.S. Customs and Border Protection

## *General Notices*

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

*Washington, DC, May 21, 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 International Trade.*

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### **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:** Modification of a ruling letter and revocation of 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 U.S. Customs and Border Protection (CBP) is modifying one ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of knit sleeve protectors. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published in the Customs

Bulletin, Vol. 42, No. 13, on March 20, 2008. No comments were received in response to the notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 3, 2008.

**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 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the Customs Bulletin, Vol. 42, No. 13, on March 20, 2008, proposing to modify New York Ruling Letter (NY) C88292, dated June 8, 1998, which classified certain knit sleeve protectors in heading 6307, HTSUS. No comments were received in response to the notice. As stated in the proposed notice, this modification will cover any rulings on the subject 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 ruling identified above. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY C88292 to reflect the proper tariff classification of this merchandise under heading 6117, HTSUS, specifically in 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", pursuant to the analysis set forth in Headquarters Ruling Letter (HQ) H006230, which is set forth as an attachment to this document. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by it to substantially identical transactions.

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

DATED: May 14, 2008

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

Attachment

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H006230  
May 14, 2008  
**CLA-2 OT:RR:CTF:TCM** H006230 GC  
**CATEGORY:** Classification  
**TARIFF NO.:** 6117.80.9540, HTSUSA

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. Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed modification of NY C88292 was published on March 20, 2008, in Volume 42, Number 13, of the CUSTOMS BULLETIN. CBP received no comments in response to the notice.

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

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

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**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 modification of four tariff classification ruling letters and 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)), as amended by section 623 of Title VI (Customs

Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying four ruling letters relating to the tariff classification of certain stainless steel flatware under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published in the Customs Bulletin, Vol. 42, No. 13, on March 20, 2008. No comments were received in response to the notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 3, 2008.

**FOR FURTHER INFORMATION CONTACT:** Isaac D. Levy, Tariff Classification and Marking Branch, at (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, a notice was published in the Customs Bulletin, Vol. 42, No. 13, on March 20, 2008, proposing 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 proposed to modify two rul-

ing letters pertaining to the tariff classification of certain stainless steel flatware with handles of stainless steel and plastic. No comments were received in response to the notice. Although in that notice, CBP specifically proposed to modify 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), the modification 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 which 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 that notice should have advised CBP during the notice period.

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

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying 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 Headquarters Ruling Letters H004582, H004585, H004587, and H004589, set forth as Attachments A-D to this document. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

DATED: May 14, 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 H004582

May 14, 2008

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 since reviewed HQ 965032 and find that it contains an error.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published in the *Customs Bulletin*, Volume 42, No. 13, on March 20, 2008. No comments were received in response to the notice.

**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, accord-

ing 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, HTSUS.

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

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

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**[ATTACHMENT B]**

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H004585  
May 14, 2008  
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 since reviewed HQ 965794 and find that it contains an error.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published in the Customs Bulletin, Volume 42, No. 13, on March 20, 2008. No comments were received in response to the notice.

**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, HTSUS.

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

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

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H004587  
May 14, 2008  
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 since reviewed NY A86065 and find that it contains errors.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published in

the *Customs Bulletin*, Volume 42, No. 13, on March 20, 2008. No comments were received in response to the notice.

**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 subhead-

ings 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 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% ad valorem. Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the Internet at [www.usitc.gov/tata/hts/](http://www.usitc.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. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

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

## [ATTACHMENT D]

DEPARTMENT OF HOMELAND SECURITY.  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H004589  
May 14, 2008  
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.  
5101 South Broad Street  
Philadelphia, Pennsylvania 19112-1404

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 Harmonized Tariff Schedule of the United States (HTSUS). We have since reviewed NY B87880, and find that it contains errors.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published in the Customs Bulletin, Volume 42, No. 13, on March 20, 2008. No comments were received in response to the notice.

**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% ad valorem. Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the Internet at [www.usitc.gov/tata/hts/](http://www.usitc.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. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

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

GENERAL NOTICE

19 CFR PART 177

**REVOCATION OF RULING LETTERS AND REVOCATION  
OF TREATMENT RELATING TO CLASSIFICATION OF  
TRIPHENYLPHOSPHINE**

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

**ACTION:** Notice of revocation of ruling letters and treatment relating to the classification of Triphenylphosphine.

**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 CPB is revoking two rulings concerning the classification of Triphenylphosphine, under the Harmonized Tariff Schedule of the United States HTSUS). Similarly, CPB is revoking any treatment previously accorded by CPB to substantially identical transactions. Notice of the proposed revocation was published on April 9, 2008, in Volume 42, Number 16, of the CUSTOMS BULLETIN. No comments were received in response to the notice.

**EFFECTIVE DATE:** This revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 3, 2008.

**FOR FURTHER INFORMATION CONTACT:** Allyson Mattanah, Tariff Classification and Marking Branch (202) 572–8784.

**SUPPLEMENTARY INFORMATION:**

Background

On December 8, 1993, Title VI (CBP 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 (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), a notice was published in the CUSTOMS BULLETIN, Volume 42, No. 16, on April 9, 2008, proposing to revoke New York Ruling Letters (NY) K82087, dated January 12, 2004, and NY R02861, dated December 9, 2005, and any treatment accorded to substantially identical transactions. No comments were received in response to the notice.

As stated in the proposed notice, this revocation will cover any rulings on this merchandise that may exist but have not been specifically identified. Any party, who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should have advised CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by Title VI, CBP is revoking any treatment it previously accorded to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the notice period. An importer’s failure to advise CBP of substantially identical transactions or of a

specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this final decision.

In NY K82087 and NY R02861, CBP ruled that Triphenylphosphine is classified in subheading 2931.00.90, HTSUS, which provides for: "Other organo-inorganic compounds: Other: Other: Other." The referenced rulings are incorrect because the chemical substance at issue contains three benzene rings and is therefore an aromatic compound provided for in heading 2931.00.60, HTSUS, which provides for: "Other organo-inorganic compounds: Aromatic: Other: Other."

CBP, pursuant to 19 U.S.C. 1625(c)(1), is revoking NY K82087 and NY R02861, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letters (HQ) H007448 and (HQ) H007661 (see Attachments "A" and "B" to this document). Additionally, pursuant to section 625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: May 15, 2008

Ieva K. O'Rourke for MYLES B. HARMON,  
*Director,*  
*Commercial and Trade Facilitation Division.*

Attachments

## [ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
**HQ H007448**  
May 15, 2008  
**CLA-2 OT:RR:CTF:TCM H007448 ARM**  
**CATEGORY:** Classification  
**TARIFF NO.:** 2931.00.60

JOSEPH CHIVINI  
*Austin Chemical Company*  
*1565 Barclay Blvd.*  
*Buffalo Grove, IL 6089*

**RE:** Revocation of NY K82087; Triphenylphosphine (CAS 603-35-0) from China

DEAR MR. CHIVINI:

In New York (NY) Ruling letter K82087, dated January 12, 2004, regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of Triphenylphosphine (CAS 603-35-0) from China, we classified the substance as a non-aromatic compound. The substance is an aromatic compound and for this reason, we propose to revoke NY K82087.

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. 103-182, 107 Stat. 2057), a notice was published in the CUSTOMS BULLETIN, Volume 42, No. 16, on April 9, 2008, proposing to revoke New York Ruling Letters (NY) K82087, dated January 12, 2004, and NY R02861, dated December 9, 2005, and any treatment accorded to substantially identical transactions. No comments were received in response to the notice.

**FACTS:**

The merchandise consists of Triphenylphosphine a chemical substance assigned CAS 603-35-0. The chemical formula is C<sup>18</sup>H<sup>15</sup>P. The chemical structure consists of three benzene rings surrounding a phosphorus atom.

**ISSUE:**

Is Triphenylphosphine classified as an aromatic chemical substance under the HTSUS?

**LAW AND ANALYSIS:**

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

The HTSUS subheadings under consideration are as follows:

2931 Other organo-inorganic compounds:

Aromatic:

Other:

Other:

Other:

2931.00.60 Other.

\* \* \* \* \*

Other:

2931.00.90 Other.

As an initial matter, the substance, represented by the chemical formula  $C^{18}H^{15}P$ , is described by Chapter 29 note 1(a) as a separately chemically defined compound. Additional U.S. Note 2(a) to Section VI states, in pertinent part, the following: "For the purposes of the tariff schedule: The term 'aromatic' as applied to any chemical compound refers to such compound containing one or more fused or unfused benzene rings; . . ." According to Hawley's, aromatic compounds are "a major group of unsaturated cyclic hydrocarbons containing one or more rings, typified by benzene, which has a 6-carbon ring containing three double bonds . . ." Hawley's Condensed Chemical Dictionary, 12th ed., Lewis, Richard J., ed. (Van Nostrand Reinhold Company, 1993).

The three rings in the instant chemical structure meet the definition of benzene rings, as they are six-sided and contain 3 double bonds. Therefore, the compound is aromatic by definition and should be classified as such in subheading 2931.00.60, HTSUS, in accordance with Section VI, Additional U.S. Note 2(a).

**HOLDING:**

Triphenylphosphine is classified in subheading 2931.00.60, which provides for: "Other organo-inorganic compounds: Aromatic; Other: Other: Other: Other." The 2008, column one general rate of duty is 6.5% ad valorem.

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

**EFFECT ON OTHER RULINGS:**

NY K82087, dated January 12, 2004, is revoked.

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

Ieva K. O'Rourke for MYLES B. HARMON,  
*Director,*  
*Commercial and Trade Facilitation Division.*

## [ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
**HQ H007661**  
May 15, 2008  
**CLA-2 OT:RR:CTF:TCM H007661 ARM**  
**CATEGORY:** Classification  
**TARIFF NO.:** 2931.00.60

Ms. CHRISTINA FNU  
*Wintersun Chemical*  
3100 East Cedar St., Ste. #15  
Ontario, CA 91761

**RE:** Revocation of NY R02861; Triphenylphosphine (CAS 603-35-0)

DEAR MS. FNU:

In New York (NY) Ruling letter R02861, dated December 9, 2005, regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of Triphenylphosphine (CAS 603-35-0), we classified the substance as a non-aromatic compound. The substance is an aromatic compound and for this reason, we propose to revoke NY R02861.

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. 103-182, 107 Stat. 2057), a notice was published in the CUSTOMS BULLETIN, Volume 42, No. 16, on April 9, 2008, proposing to revoke New York Ruling Letters (NY) K82087, dated January 12, 2004, and NY R02861, dated December 9, 2005, and any treatment accorded to substantially identical transactions. No comments were received in response to the notice.

**FACTS:**

The merchandise consists of Triphenylphosphine a chemical substance assigned CAS 603-35-0. The chemical formula is  $C^{18}H^{15}P$ . The chemical structure consists of three benzene rings surrounding a phosphorus atom.

**ISSUE:**

Is Triphenylphosphine classified as an aromatic chemical substance under the HTSUS?

**LAW AND ANALYSIS:**

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

The HTSUS subheadings under consideration are as follows:

2931 Other organo-inorganic compounds:

Aromatic:

Other:

Other:

Other:

2931.00.60 Other.

\* \* \* \* \*

Other:

2931.00.90 Other.

As an initial matter, the substance, represented by the chemical formula  $C^{18}H^{15}P$ , is described by Chapter 29 note 1(a) as a separately chemically defined compound. Additional U.S. Note 2(a) to Section VI states, in pertinent part, the following: "For the purposes of the tariff schedule: The term 'aromatic' as applied to any chemical compound refers to such compound containing one or more fused or unfused benzene rings; . . ." According to Hawley's, aromatic compounds are "a major group of unsaturated cyclic hydrocarbons containing one or more rings, typified by benzene, which has a 6-carbon ring containing three double bonds . . . ." Hawley's Condensed Chemical Dictionary, 12<sup>th</sup> ed., Lewis, Richard J., ed. (Van Nostrand Reinhold Company, 1993).

The three rings in the instant chemical structure meet the definition of benzene rings, as they are six-sided and contain 3 double bonds. Therefore, the compound is aromatic by definition and should be classified as such in subheading 2931.00.60, HTSUS, in accordance with Section VI, Additional U.S. Note 2(a).

**HOLDING:**

Triphenylphosphine is classified in subheading 2931.00.60, which provides for: "Other organo-inorganic compounds: Aromatic: Other: Other: Other: Other." The 2008, column one general rate of duty is 6.5% ad valorem.

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

**EFFECT ON OTHER RULINGS:**

NY R02861, dated December 9, 2005, is revoked.

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

Ieva K. O'Rourke for MYLES B. HARMON,  
*Director,*  
*Commercial and Trade Facilitation Division.*