

U.S. Customs and Border Protection



19 C.F.R. PART 177

Revocation of a Ruling Letter and Revocation of Treatment Relating to the Country of Origin Marking for Certain Fishing Line

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

ACTION: Notice of revocation of a ruling letter and revocation of treatment relating to the country of origin marking for monofilament fishing line, and request for comments.

SUMMARY: Pursuant to Section 625(c), Tariff Act of 1930, (19 U.S.C. § 1625(c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking a ruling letter relating to the country of origin marking of certain monofilament fishing line. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed revocation was published in the *Customs Bulletin*, Vol. 45, No. 16, on April 13, 2011. 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EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 8, 2011.

FOR FURTHER INFORMATION CONTACT: Barbara Kunzinger, Valuation and Special Programs Branch, at (202) 325–0359.

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 laws 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, a notice was published in the *Customs Bulletin*, Vol. 45, No. 16, on April 13, 2011, proposing to revoke New York Ruling G81433, dated September 14, 2000, concerning the country of origin for certain monofilament fishing line. No comments were received in response to the notice.

As stated in the notice, this revocation covers any rulings on this merchandise which may exist but have not been 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 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 section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any persons involved with 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 the final decision on this notice.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY G81433 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper country of origin of the merchandise, pursuant to the analysis in Headquarters

Ruling Letter (HRL) H086568 (Attachment). Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: May 18, 2011

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H086568

May 18, 2011

OT:RR:CTF:VS H086568 BGK

Category: Marking

JACK ALSUP
ALSUP & ALSUP, INC.
P.O. BOX 1251
DEL RIO, TEXAS 78841

Re: Revocation of NY G81433; Country of origin marking for monofilament fishing line

DEAR MR. ALSUP:

This letter is to inform you that U.S. Customs and Border Protection (CBP) has reconsidered New York Ruling Letter (NY) G81433, issued to you on September 14, 2000, on behalf of your client, Plastic Lures, Inc., concerning the country of origin marking of monofilament fishing line. In NY G81433, CBP determined that the country of origin, under the NAFTA Marking Rules, should be Germany. We have reviewed that ruling and found it to be in error. Therefore, this ruling modifies NY G81433.

FACTS:

The merchandise at issue is described in NY G80871, dated August 29, 2000, issued to you prior to NY G81433:

Your letter indicates that synthetic monofilament line made from nylon and other polyamides with various line diameters ranging from .1mm to .5mm is produced in Germany and imported into Mexico in bulk spools ranging in length from 32000 meters to about 87000 meters of line per spool. In Mexico, the bulk rolls of monofilament are respooled on to smaller retail consumer spools holding anywhere from 324 meters of line to 450 meters of line. These consumer spools are then packaged for retail sale and imported to the United States. In their condition as imported, the monofilament line spools are made up into fishing lines and put up and packaged for sale at retail as recreational fishing line.

The fishing line, when imported into Mexico from Germany, is classified under subheading 5404.10 of the Harmonized Tariff Schedule of the United States (HTSUS). When imported into the U.S., the fishing line is classified under subheading 9507.90.20, HTSUS. NY G80871 determined that the monofilament fishing line imported from Mexico was eligible for NAFTA treatment.

ISSUE:

What is the proper country of origin marking for the monofilament fishing line?

LAW AND ANALYSIS:

As determined in NY G80871, the monofilament fishing line was eligible for NAFTA preferential tariff treatment when imported into the U.S. In NY G80871, CBP determined that the fishing line met the applicable tariff shift

requirement of HTSUS General Note 12(t), Chapter 95, Rule 10 to be considered a “[good] originating in the territory of a NAFTA party”, as defined in General Note 12(b).

The marking statute, section 304, Tariff Act of 1930, as amended (19 U.S.C. § 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. 19 U.S.C. § 1304(a). Part 134, Customs Regulations (19 C.F.R. Part 134) implements the country of origin marking requirements and exceptions of 19 U.S.C. § 1304.

Section 134.1(b) of the regulations, defines “Country of origin” as:

the country of manufacture, production, or growth of any article of foreign origin entering the U.S. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the “country of origin” within this part; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin.

19 C.F.R. § 134.1(b). Section 134.1(j) provides that the “NAFTA Marking Rules” are the rules promulgated for purposes of determining whether a good is a good of a NAFTA country. Section 134.1(g) of the regulations, defines a “good of a NAFTA country” as “an article for which the country of origin is Canada, Mexico or the United States as determined under the NAFTA Marking Rules.” As provided in section 134.45(a)(2), “[a] good of a NAFTA country may be marked with the name of the country of origin in English, French, or Spanish.”

The NAFTA Marking Rules are set forth in 19 C.F.R. Part 102. Section 102.11(a) contains the “General rules” for determining country of origin:

- (a) The country of origin of a good is the country in which:
 - (1) The good is wholly obtained or produced;
 - (2) The good is produced exclusively from domestic materials; or
 - (3) Each foreign material incorporated in that good undergoes an applicable change in tariff classification set out in § 102.20 and satisfies any other applicable requirements of that section, and all other applicable requirements of these rules are satisfied.

In this situation, the fishing line is neither wholly obtained nor produced in Mexico, nor is it exclusively produced from Mexican materials. Therefore, section 102.11(a)(3) is the next rule to consider in order to determine the country of origin. The tariff shift rule for subheading 9507.90.20, HTSUS, the classification of the fishing line upon importation into the U.S., is listed in section 102.20 as “A change to subheading 9507.90 from any other subheading, except heading 5004 through 5006, 5404, 5406, or 5603, or from subheading 5402.11 through 5402.49.” 19 C.F.R. § 102.20 (emphasis added). The fishing line is imported into Mexico under heading 5404, HTSUS, and therefore does not satisfy the requisite tariff shift rule.

Accordingly, 19 C.F.R. § 102.11(b) of the hierarchical rules must be applied, which provides that:

Except for a good that is specifically described in the Harmonized System as a set, or is classified as a set pursuant to General Rule of Interpretation 3, where the country of origin cannot be determined under paragraph (a) of this section:

- (1) The country of origin of the good is the country or countries of origin of the single material that imparts the essential character of the good, or
- (2) If the material that imparts the essential character of the good is fungible, has been commingled, and direct physical identification of the origin of the commingled material is not practical, the country or countries of origin may be determined on the basis of an inventory management method provided under the appendix to part 181 of [the Customs Regulations].

Here, we find that the monofilament fishing line imparts the essential character of the packaged retail fishing line. The country of origin of the monofilament fishing line is Germany.

However, section 102.19(a) contains a “NAFTA preference override”.

Except in the case of goods covered by paragraph (b) of this section, if a good which is originating within the meaning of § 181.1(q) of this chapter is not determined under § 102.11(a) or (b) or § 102.21 to be a good of a single NAFTA country, the country of origin of such good is the last NAFTA country in which that good underwent production other than minor processing, provided that a Certificate of Origin . . . has been completed and signed for the good.

19 C.F.R. § 102.19(a). As determined in NY G80871, the fishing line is an originating good under section 181.1(q). Additionally, the fishing line is not a good of a single NAFTA country under section 102.11(a) or (b) or section 102.21. As such, the fishing line may be a product of Mexico under the “NAFTA preference override” if it undergoes more than “minor processing.”

“Minor processing” is defined by 19 C.F.R. § 102.1(m), in part, as:

- . . .
- (4) Trimming, filing or cutting off small amounts of excess materials; [or]
- . . .
- (6) Putting up in measured doses, packing, repacking, packaging, repackaging;
- . . .

Here, while cutting occurs, it is not the type of cutting described in paragraph (4). 19 C.F.R. § 102.1(m)(4) refers to cutting off small amount of excess materials, while here, bulk rolls are being cut to size to create the retail fishing line. The retail lines are being created, not trimmed. Therefore, paragraph (4) is not controlling. Also, because the bulk rolls are being cut to size and respooled before being packaged, the operations go beyond those described in paragraph (6) as well. The retail fishing line is not just sorted into smaller amounts and packaged, as described in 19 C.F.R. § 102.1(m)(6); it is cut to size from bulk rolls and respooled before packaging.

We note that in Headquarters Ruling Letter (HRL) 966892, it was held that cutting sutures to length and packaging them was not enough to create a change in the country of origin, taking into account section 102.21, the textile and apparel rules of origin and section 102.17. Section 102.17(c) provides that an applicable change in tariff classification set forth in section 102.20 or section 102.21 shall not have been met by “simple packing, repacking or retail

packaging without more than minor processing.” We note that unlike this case, HRL 966892 did not involve the NAFTA eligibility of the goods at issue. Further in this case, the bulk rolls of the monofilament fishing line are cut to retail size, and the lines are respooled before packaging.

Accordingly, we find that the fishing line undergoes more than minor processing in Mexico. Pursuant to section 102.19(a), the fishing line is a product of Mexico.

HOLDING:

As the monofilament fishing line is a NAFTA originating good of Mexico under General Note 12(t), Chapter 95, Rule 10, HTSUS, the country of origin of the fishing line is Mexico for purposes of the marking requirements.

EFFECT ON OTHER RULINGS:

NY G81433, dated September 14, 2000, is hereby REVOKED.

Sincerely,

MYLES B. HARMON,

Director

Commercial Trade and Facilitation Division

19 C.F.R. PART 177

Modification of Two Ruling Letters and Revocation of Treatment Relating to the Classification of Certain Screen-Printed Men's Shirts and Certain Girl's Pullovers

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

ACTION: Notice of modification of two ruling letters and revocation of treatment relating to the classification of certain screen-printed men's shirts and of certain screen-printed girl's pullovers.

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 two ruling letters relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of certain screen-printed men's shirts and of certain screen-printed girl's pullovers. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed modifications was published on April 13, 2011, in the *Customs Bulletin*, Volume 45, No. 16. 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 8, 2011.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Valuation and Special Programs Branch, at (202) 325-0034.

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 is modifying two ruling letters relating to the tariff classification of certain men's shirts and certain girl's pull-overs. Although in this notice CBP is specifically referring to the modification of New York Ruling Letter (NY) N041522 dated November 14, 2008, and Headquarters Ruling Letter (HQ) H047557, dated September 21, 2009, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should 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 with 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 the final decision on this notice.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying NY N041522 and HQ H047557 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ H125795 (Attachment A) and HQ H113355 (Attachment B). Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking

any treatment previously accorded by CBP to substantially identical transactions that are contrary to the determination set forth in this notice.

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

Dated: May 18, 2011

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

HQ H125795

May 18, 2011

CLA-2 OT:RR:CTF:VS H125795 HkP

CATEGORY: Classification

RACHAEL GODING, ESQ.
INTERNATIONAL AUTOMATED BROKERS, INC.
1655 ST. ANDREWS COVE
SAN DIEGO, CA 92154

RE: Modification of NY N041522; Tariff Classification and Eligibility for a Partial Duty Exemption under subheading 9802.00.80, HTSUS, for certain Men's Knit Garments

DEAR MS. GODING:

This letter concerns New York Ruling Letter (NY) N041522, issued to you on November 14, 2008, on behalf of your client Aquasea, Inc., by the National Commodity Specialist Division, U.S. Customs and Border Protection (CBP). At issue in that ruling was the tariff classification of certain men's knit garments and their eligibility for a partial duty exemption under subheading 9802.00.90, Harmonized Tariff Schedule of the United States (HTSUS). We have reconsidered that ruling and found that it is incorrect as it relates to our finding that the men's garments were eligible for a partial duty exemption.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published on April 13, 2011, in the *Customs Bulletin*, Volume 45, No. 16. No comments were received in response to the notice.

FACTS:

The merchandise was described in NY N041522, in relevant part, as follows:

The submitted samples, identified as Styles AA1, IM1 and ID1, are men's knit garments that are similar to T-shirts. Styles AA1, IM1 and ID1 have a rib knit mitered V-neckline; short, hemmed sleeves; a screen print design on the right rear shoulder; a small woven fabric label sewn into the lower portion of the front panel; and a straight, hemmed bottom. . . .

. . . .

You state that foreign yarn will be knit into fabric in the United States and the fabric will be dyed and cut into component parts in the United States. The cut-to-shape component parts will then be shipped to Mexico where they will be sewn into garments and screen printed prior to return to the United States. . . .

Considering the provisions of subheading 9802.00.90, HTSUS, CBP found that the application of the screen print design was not an operation incidental to the assembly process. Nonetheless, as the screen printing was only performed on a single component of the shirts, their back panel, CBP held that the printing operation would not preclude "the remainder of the garment" which otherwise satisfied the requirements of subheading 9802.00.90,

HTSUS, from receiving a partial duty exemption under the provision. However, we now note that subheading 9802.00.90, HTSUS, only provides for full exemptions from customs duties.

ISSUE:

Whether the screen printed men's shirts imported from Mexico are eligible to be exempt from customs duty under subheading 9802.00.90, HTSUS.

LAW AND ANALYSIS:

Subheading 9802.00.90, HTSUS, provides a duty exemption for:

Textile and apparel goods, assembled in Mexico in which all fabric components were wholly formed and cut in the United States, provided that such fabric components, in whole or in part, (a) were exported in condition ready for assembly without further fabrication, (b) have not lost their physical identity in such articles by change in form, shape or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process; provided that goods classifiable in chapters 61, 62 or 63 may have been subject to bleaching, garment dyeing, stone-washing, acid-washing or perma-pressing after assembly as provided for herein.

Because all the components of the shirts were wholly formed and cut in the U.S. and assembled in Mexico, they need not fully satisfy the requirements of subheading 9802.00.90, HTSUS, in order to gain a full duty exemption. Subheading 9802.00.90, HTSUS, requires only that the textile and apparel goods described in the subheading "in whole or in part" satisfy the requirements of parts (a), (b), and (c) of the tariff provision. Consequently, while the application of the screen print design to one component of the shirts is not an operation incidental to the assembly process, that operation will not preclude the shirts which otherwise satisfy the conditions of the subheading, from receiving the benefit of this tariff provision. *See* 19 C.F.R. 10.16(b), (c). *See also* HQ 560201 (May 14, 1998).

HOLDING:

The men's knit garments described in this ruling are eligible for a full duty exemption under subheading 9802.00.90, HTSUS, when returned to the United States.

EFFECT OF OTHER RULINGS:

NY N041522 is modified with respect to the eligibility of the shirts for a full duty exemption under subheading 9802.00.90, HTSUS. The tariff classification of the shirts is unchanged.

Sincerely,

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

[ATTACHMENT B]

HQ H113355

May 18, 2011

CLA-2 OT:RR:CTF:VS H113355 HkP

CATEGORY: Classification

PORT DIRECTOR
PORT OF SAN DIEGO
U.S. CUSTOMS AND BORDER PROTECTION
9777 VIA DE LA AMISTAD
SAN DIEGO, CA 92154

RE: Modification of HQ H047557; Application for Further Review of Protest No. 2506-08-100047; Screen-printed girls' cotton knit pullovers; Sub-heading 9802.00.80, HTSUS

DEAR PORT DIRECTOR:

This letter concerns Headquarters Ruling Letter (HQ) H047557, issued to you on September 21, 2009, in response to the Application for Further Review of Protest no. 2506-08-100047, filed on behalf of California Concepts, Inc. We have reviewed HQ H047557 and found it to be incorrect as it relates to the denial of a partial duty exemption under subheading 9802.00.80, Harmonized Tariff Schedule of the United States (HTSUS), for the merchandise described in that ruling. Our decision in HQ H047557 concerning the applicability of subheading 9999.00.60, HTSUS, is not affected by the instant ruling.

We note that under *San Francisco Newspaper Printing Co. v. United States*, 9 Ct. Int'l Trade 517, 620 F. Supp. 738 (1985), the decision on the merchandise which was the subject of Protest 2506-08-100047 was final on both the protestant and U.S. Customs and Border Protection (CBP). Therefore, while we may review the law and analysis of HQ H047557, any decision taken herein would not impact the entries subject to that ruling.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published on April 13, 2011, in the *Customs Bulletin*, Volume 45, No. 16. No comments were received in response to the notice.

FACTS:

The relevant facts, as set forth in HQ H047557, are as follows:

The merchandise at issue is identified as style 258X548M. It is a girls' 100% cotton knit pullover which features screen-printing of a butterfly on the front body. The fabric used to produce the pullover was produced outside the territory of a NAFTA Party. It was imported into the United States where protestant states it was cut into components and exported to Mexico. In Mexico, protestant stated the components were sewn and assembled, screen-printed and packaged. The finished pullovers were exported to the United States.

CBP found the screen-printing done in Mexico to be an operation that advanced the value of the garments, such that the garments in their entirety would not qualify for a partial duty exemption under subheading 9802.00.80, HTSUS.

ISSUE:

Whether the girls' cotton knit pullovers assembled and screen-printed in Mexico are eligible for a partial duty exemption under subheading 9802.00.80, HTSUS.

LAW AND ANALYSIS:

Subheading 9802.00.80, HTSUS, provides a partial duty exemption for:

Articles ... assembled abroad in whole or in part of fabricated components, the product of the United States, which (a) were exported in condition ready for assembly without further fabrication, (b) have not lost their physical identity in such articles by change in form, shape or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process such as cleaning, lubricating and painting[.]

All three requirements of subheading 9802.00.80, HTSUS, must be satisfied before a component may receive a duty allowance. An article entered under this tariff provision is subject to duty upon the full appraised value of the imported assembled article, less the cost or value of the U.S. components assembled therein, upon compliance with the documentation requirements of section 10.24, CBP Regulations.

Section 10.14(a), CBP Regulations (19 C.F.R. § 10.14(a)), states in part that:

The components must be in condition ready for assembly without further fabrication at the time of their exportation from the United States to qualify for the exemption. Components will not lose their entitlement to the exemption by being subjected to operations incidental to the assembly either before, during, or after their assembly with other components.

Section 10.16(a), CBP Regulations (19 C.F.R. § 10.16(a)), provides that the assembly operation performed abroad may consist of any method used to join or fit together solid components, such as welding, soldering, riveting, force fitting, gluing, lamination, sewing, or the use of fasteners.

Operations incidental to the assembly process are not considered further fabrication operations, as they are of a minor nature and cannot always be provided for in advance of the assembly operations. *See* 19 C.F.R. § 10.16(a). However, any significant process, operation or treatment whose primary purpose is the fabrication, completion, physical or chemical improvement of a component precludes the application of the exemption under subheading 9802.00.80, HTSUS, to that component. *See* 19 C.F.R. § 10.16(c).

In HQ H047557, we found that the screen-printing of the garments in Mexico, after they were assembled there, was an operation that advanced the value of the garments. Therefore, no components of the garments qualified for a partial duty exemption under subheading 9802.00.80, HTSUS. We concluded that the pullovers, in their entirety, would be dutiable upon the full appraised value of the garments.

Subheading 9802.00.80, HTSUS, requires only that “articles ... assembled abroad *in whole or in part* of fabricated components, the product of the United States” satisfy the three conditions identified in the provision under (a), (b), and (c) (emphasis added). Therefore, the further fabrication, i.e., screen-printing, of one of the components would not preclude the remainder of the garment which otherwise satisfies the requirements of subheading 9802.00.80, HTSUS, from receiving a partial duty exemption under this tariff provision. *See* HQ 560201 (May 14, 1998).

HOLDING:

The components of the pullovers that have not been advanced in value by screen-printing are eligible for a partial duty exemption under subheading 9802.00.80, HTSUS, when returned to the United States. The screen-printed component is not eligible for a partial duty exemption under this provision.

EFFECT ON OTHER RULINGS:

HQ H047557, dated September 21, 2009, is hereby modified with respect to the eligibility of the pullovers for a partial duty exemption under subheading 9802.00.80, HTSUS. The ineligibility of the pullovers for the NAFTA Trade Preference Level under Additional U.S. Note 3(b) to Section XI is unchanged.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED MODIFICATION OF RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE CLASSIFICATION AND COUNTRY OF ORIGIN
MARKING OF CERTAIN PRINTED BUSINESS CARDS**

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

ACTION: Notice of proposed modification of a ruling letter and treatment relating to the tariff classification and country of origin marking of business printed cards.

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 proposing to modify one ruling letter relating to the tariff classification and country of origin marking of printed cards. CBP is also proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before July 8, 2011.

ADDRESSES: Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 799 9th Street, N.W. 5th Floor, Washington, D.C. 20229–1179. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch: (202) 325–0024.

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, 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 classification and country of origin marking of printed business cards. Although in this notice, CBP is specifically referring to the modification of New York Ruling Letter (NY) N095291, dated March 19, 2010 (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 proposes 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 notice of this proposed action.

In NY N095291, CBP determined that printed business cards were classified in heading 4911, specifically subheading 4911.99.60, HTSUS, as "Other printed matter, including printed pictures and photographs: Other: Other: Printed on paper in whole or in part by a lithographic process." CBP also determined that the printed business cards must be individually marked with their country of origin. It is now CBP's position that the printed business cards are properly

classified in subheading 4911.99.80, HTSUS, which provides for “other printed matter, including printed pictures and photographs: Other: Other: Other: Other,” and that the printed business cards need not be marked, as long as CBP at the port of entry is satisfied that the business cards will remain in their properly marked container until they reaches the ultimate purchaser in the U.S.

Also subject to NY N095291 were printed postcards. The classification and marking of the other items described in NY N095291 are not affected by this notice.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to modify NY N095291 and revoke or modify any other ruling not specifically identified, in order to reflect the proper classification and country of origin marking of the printed business cards according to the analysis contained in proposed Headquarters Ruling Letter H101588, 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: May 25, 2011

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N095291

March 19, 2010

CLA-2-49:OT:RR:NC:2:234

CATEGORY: Classification

TARIFF NO.: 4911.99.6000

Ms. AMY ROSE
MILGRAM & COMPANY LTD.
500 – 407 MCGILL
MONTREAL, QUEBEC
CANADA H2Y 2G7

RE: The tariff classification of printed material from China, Korea and Japan

DEAR Ms. ROSE:

In your letter dated February 11, 2010, you requested a tariff classification ruling.

The ruling was requested on two styles of printed material. Representative samples of a printed business card and a printed postcard were submitted for our examination. The samples are lenticular printed material which creates an animated or 3D effect. The lenticular printing process allows the viewer to see two different pictures which appear to alternate in the same space when the item is held at different angles.

Sample 1 is a lenticular printed business card which features a 3D effect. The business card displays a photo of the individual, the name, title, ID #, telephone number, etc. The printed image and text are printed directly onto a flexible plastic material. You state in your letter that, although the sample submitted is printed on one side, the actual items imported may be printed on both sides. The business card measures approximately 3 1/2" x 2 1/8". The business cards will be sold by the box.

Sample 2 is a lenticular printed postcard featuring advertising material with an animated or 3D image. The face of the postcard is divided into quarter sections which feature four advertising images that change in view when held at different angles. You state in your letter that the images and text are first printed on paper then laminated with plastic. The back of the postcard is divided into two sections. The left side is designed for writing a note. The right side is stamped with four lines to enter a mailing address and a designated postage stamp area in the upper right hand corner. The postcard measures 4" x 6".

The applicable subheading for the lenticular printed material will be 4911.99.6000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for other (non-enumerated) printed matter, printed on paper in whole or in part by a lithographic process. The rate of duty will be Free.

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

We note that the samples are not marked with the country of origin. To ensure that the ultimate recipient is informed of such origin, the imported business cards and postcards will be required to be individually marked, for example, "Printed in China," "Printed in South Korea" or "Printed in Japan." If a U. S. address is printed anywhere on the cards, proper Customs marking

requires that the country of origin appears in the plane of the address. In the alternative, the country of origin marking for these items should be printed on the reverse side of the printed image and text.

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 Patricia Wilson at (646) 733-3037.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H101588
CLA-2 OT:RR:CTF:TCM H101588 CKG
CATEGORY: Marking
TARIFF NO.: 4911.99.60

Ms. AMY ROSE
MILGRAM & COMPANY LTD.
500 – 407 MCGILL
MONTREAL, QUEBEC
CANADA H2Y 2G7

RE: Modification of NY N095291; the country of origin marking of printed material from China, Korea and Japan

DEAR Ms. ROSE:

This is in response to your letter of April 7, 2010, on behalf of Snap 3D Inc., requesting the reconsideration of New York Ruling Letter (NY) N095291, dated March 19, 2010, as it pertains to the country of origin marking of printed business cards and postcards from China, Korea and Japan. In NY N095291, CBP determined that the printed business cards and postcards at issue must be individually marked with their country of origin. We have reviewed NY N095291 and have determined that the classification and marking determinations with regard to the printed business cards was in error. Therefore, this ruling modifies NY N095291 with respect to the business cards at issue.

FACTS:

NY N095291 described the subject merchandise as follows:

Sample 1 is a lenticular printed business card which features a 3D effect. The business card displays a photo of the individual, the name, title, ID #, telephone number, etc. The printed image and text are printed directly onto a flexible plastic material. You state in your letter that, although the sample submitted is printed on one side, the actual items imported may be printed on both sides. The business card measures approximately 3 1/2" x 2 1/8". The business cards will be sold by the box.

Sample 2 is a lenticular printed postcard featuring advertising material with an animated or 3D image. The face of the postcard is divided into quarter sections which feature four advertising images that change in view when held at different angles. You state in your letter that the images and text are first printed on paper then laminated with plastic. The back of the postcard is divided into two sections. The left side is designed for writing a note. The right side is printed with four lines to enter a mailing address and a designated postage stamp area in the upper right hand corner. The postcard measures 4" x 6".

ISSUE:

Whether the individual business cards and postcards are required to be marked with their country of origin pursuant to 19 U.S.C. 1304.

LAW AND ANALYSIS:

Classification:

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

The HTSUS provisions under consideration are as follows:

4911:	Other printed matter, including printed pictures and photographs:
	Other:
4911.99:	Other:
	Other:
4911.99.60:	Printed on paper in whole or in part by a lithographic process.
4911.99.80:	Other
	* * * * *

You dispute the classification of the business cards in subheading 4911.99.60, HTSUS, as other printed matter, printed on paper by a lithographic process. You note that the business cards are composed of a flexible plastic material, not paper. As the content of the business cards is printed on plastic and not paper, the business cards are classified in subheading 4911.99.80, HTSUS.

Country of Origin Marking:

The marking statute, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Part 134, Customs and Border Protection (CBP) Regulations (19 CFR Part 134) implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304. Congressional intent in enacting 19 U.S.C. 1304 was “that the ultimate purchaser should be able to know by an inspection of the marking on the imported goods the country of which the goods is the product. The evident purpose is to mark the goods so that at the time of purchase the ultimate purchaser may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such marking should influence his will.” *United States v. Friedlaender & Co. Inc.*, 27 CCPA 297, 302, C.A.D. 104 (1940).

The general exceptions to marking are set forth in 19 U.S.C. 1304(a)(3)(A)-(K) and in Section 134.32 of the Customs Regulations (19 CFR 134.32).

19 CFR § 134.32 provides, in pertinent part, as follows:

§ 134.32 General exceptions to marking requirements.

The articles described or meeting the specified conditions set forth below are excepted from marking requirements (see subpart C of this part for marking of the containers):

. . .

(d) Articles for which the marking of the containers will reasonably indicate the origin of the articles;

19 U.S.C. 1304(b) provides, in pertinent part, as follows:.

(b) Marking of containers. Whenever an article is excepted under subdivision (3) of subsection (a) of this section from the requirements of marking, the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of such article, subject to all provisions of this section, including the same exceptions as are applicable to articles under subdivision (3) of subsection (a). . .

You state that the business cards will be sold directly to the ultimate purchasers in the same, marked container in which they are imported. We agree that, pursuant to 19 CFR § 134.32(d), marking the container legibly, indelibly, and permanently with “printed in [China, South Korea or Japan]” is sufficient to indicate to the ultimate purchaser in the U.S. the country of origin of the business cards. Accordingly, marking the container in which the cards are imported and sold to the ultimate purchaser in lieu of marking the cards themselves is an acceptable country of origin marking for the imported cards provided the port director is satisfied that the articles will remain in the marked container until they reach the ultimate purchaser. *See e.g.*, HQ H016419, dated November 28, 2007; NY N035903, dated September 9, 2008; NY N025029, dated April 15, 2008; NY N015936, dated August 28, 2007; and NY R02849, dated November 22, 2005. 19 U.S.C. 1304(b) sets forth the marking requirements for containers, when the contents are excepted from marking under 19 U.S.C. 1304(a)(3).

You further indicate that the second category of cards and signs will be wrapped and sold to wholesalers and distributors for further resale. 19 CFR § 134.32(d) thus does not apply to the second category of printed articles, nor do you allege any alternate grounds for exception of this merchandise from the marking requirements of 19 U.S.C. 1304. The lenticular printed cards and signs should be individually marked on the reverse side with the country of origin.

HOLDING:

The printed business cards are classified in heading 4911, HTSUS, specifically subheading 4911.99.80, HTSUS, which provides for “other printed matter, including printed pictures and photographs: Other: Other: Other: Other.” The 2010 general, column one rate of duty is Free.

In accordance with 19 U.S.C. 1304(a)(3)(D), the printed business cards need not be marked, as long as CBP at the port of entry is satisfied that the business cards will remain in their properly marked container until they reach the ultimate purchaser in the U.S.

The lenticular printed cards and signs should be individually marked on the reverse side with the country of origin.

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

EFFECT ON OTHER RULINGS:

New York Ruling Letter (NY) N095291, dated March 19, 2010, is hereby modified with respect to the classification and the country of origin marking of the business cards at issue.

Sincerely,
MYLES B. HARMON,
Director
Commercial Rulings Division