

U.S. Customs and Border Protection



TERMINATION OF THE ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS TO U.S. CUSTOMS AND BORDER PROTECTION; ESTABLISHMENT OF THE COMMERCIAL CUSTOMS OPERATIONS ADVISORY COMMITTEE

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

ACTION: Committee management; notice of termination of the Advisory Committee on Commercial Operations to U.S. Customs and Border Protection and establishment of the Commercial Customs Operations Advisory Committee.

SUMMARY: This notice announces the termination of the Advisory Committee on Commercial Operations to U.S. Customs and Border Protection and the establishment of the Commercial Customs Operations Advisory Committee.

SUPPLEMENTARY INFORMATION:

Background: Section 9503(c) of the Omnibus Budget Reconciliation Act of 1987, Pub.L. 100–203, Title IX, Subtitle F, § 9503(c), 101 Stat. 1330, 1330–381 (1987) (codified at 19 U.S.C. 2071 note), which established what is now the Advisory Committee on Commercial Operations to U.S. Customs and Border Protection, was repealed by section 109 of the Trade Facilitation and Trade Enforcement Act of 2015 (Pub.L. 114–125). Accordingly, the Advisory Committee on Commercial Operations to U.S. Customs and Border Protection is terminated. Section 109 also provides for the establishment of the Commercial Customs Operations Advisory Committee.

Establishment of a Commercial Customs Operations Advisory Committee: Section 109 of the Trade Facilitation and Trade Enforcement Act of 2015 (the Act) states, the Secretary of the Treasury and the Secretary of Homeland Security shall jointly establish a Commercial Customs Operations Advisory Committee (COAC). The COAC shall be comprised of 20 members, the Assistant Secretary for Tax Policy of the Department of the Treasury and the Commissioner, who shall jointly co-chair meetings of the COAC, and the Assistant Secretary for Policy of the Department of Homeland Security and the Director

of U.S. Immigration and Customs Enforcement, who shall serve as deputy co-chairs of meetings of the COAC.

The COAC members shall be appointed by the Secretary of the Treasury and the Secretary of Homeland Security. The membership is representative of individuals and firms affected by the commercial operations of U.S. Customs and Border Protection (CBP) and without regard to political affiliation. Each individual appointed to the COAC shall be appointed for a term of not more than 3 years, and may be reappointed to subsequent terms, but may not serve more than 2 terms sequentially. The Secretary of the Treasury and the Secretary of Homeland Security may transfer members serving on what is now the Advisory Committee on Commercial Operations, established under section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) on the day before the date of the enactment of the Act to the Commercial Customs Operations Advisory Committee.

The COAC shall advise the Secretaries of the Department of the Treasury and the Department of Homeland Security on all matters involving the commercial operations of CBP, including advising with respect to significant changes that are proposed with respect to regulations, policies, or practices of CBP. The COAC will provide recommendations to the Secretary of the Treasury and the Secretary of Homeland Security on improvements to the commercial operations of CBP.

The COAC shall meet at the call of the Secretary of the Treasury and the Secretary of Homeland Security, or at the call of not less than 2/3 of the membership of the COAC. The COAC shall meet at least 4 times each calendar year.

Not later than December 31, 2016, and annually thereafter, the COAC shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that describes the activities of the COAC during the preceding fiscal year, and sets forth any recommendations of the COAC regarding the commercial operations of CBP.

Effective on the date on which the Advisory Committee is established, section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) is repealed. Any reference in law to the Advisory Committee on Commercial Operations of the United States Customs Service established under section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) made on or after the date on which the Advisory Committee is established, shall be deemed a reference to the Commercial Customs Operations Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229; telephone (202) 344-1661; facsimile (202) 325-4290.

Dated: March 29, 2016.

MARIA LUISA BOYCE,
*Senior Advisor for Private
Sector Engagement,
Office of Trade Relations*

[Published in the Federal Register, April 1, 2016 (81 FR 18865)]



DEPARTMENT OF THE TREASURY

19 CFR Part 4

VESSELS IN FOREIGN AND DOMESTIC TRADES

CFR Correction

In Title 19 of the Code of Federal Regulations, parts 0 to 140, revised as of April 1, 2015, on page 67, in § 4.88, in paragraph (a), remove the words “with a registry which” and add in their place “with a registry endorsement which”.

[Published in the Federal Register, April 1, 2016 (81 FR 18748)]



DEPARTMENT OF THE TREASURY

19 CFR Part 10

**ARTICLES CONDITIONALLY FREE, SUBJECT TO A
REDUCED RATE, ETC.**

CFR Correction

In Title 19 of the Code of Federal Regulations, parts 0 to 140, revised as of April 1, 2015, on page 259, in § 10.470, revise the section heading to read “Verification and justification of claim for preferential tariff treatment.”

[Published in the Federal Register, April 1, 2016 (81 FR 18748)]

DEPARTMENT OF THE TREASURY**19 CFR Part 12****SPECIAL CLASSES OF MERCHANDISE***CFR Correction*

In Title 19 of the Code of Federal Regulations, parts 0 to 140, revised as of April 1, 2015, on page 480, in § 12.74, in paragraph (b)(2), remove the phrase “a period of”.

[Published in the Federal Register, April 1, 2016 (81 FR 18749)]

**DEPARTMENT OF THE TREASURY****19 CFR Part 24****CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE***CFR Correction*

In Title 19 of the Code of Federal Regulations, parts 0 to 140, revised as of April 1, 2015, on page 596, in § 24.22, in paragraph (g)(7), remove the term “Customs” and add “CBP” in its place.

[Published in the Federal Register, April 1, 2016 (81 FR 18749)]

**DEPARTMENT OF THE TREASURY****19 CFR Part 122****AIR COMMERCE REGULATIONS***CFR Correction*

In Title 19 of the Code of Federal Regulations, parts 0 to 140, revised as of April 1, 2015, on page 810, in § 122.24, in paragraph (b), after the paragraph heading, remove the introductory text before the table.

[Published in the Federal Register, April 1, 2016 (81 FR 18749)]

**REVOCAION OF ONE RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF A BACKROOM RESTOCKING
CART**

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

ACTION: Notice of revocation of one ruling letter and of revoke treatment relating to the tariff classification of a backroom restocking cart (Item #30232).

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 one ruling letter concerning tariff classification of a metal backroom restocking cart under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 50, No. 2 & 3, on January 20, 2016. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Emily Beline, Tariff Classification & Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–7799.

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) (“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 commu-

nity's responsibilities and rights under the customs and related laws. In addition, both the public 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. 50, No. 2 & 3, on January 20, 2016, proposing to revoke one ruling letters pertaining to the tariff classification of metal backroom restocking cart. As stated in the proposed notice, this action will cover New York Ruling Letter ("NY") N019321, dated November 21, 2007, as well as any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should 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 in 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 notice.

In NY N019321, CBP classified a metal backroom restocking cart in heading 8716, HTSUS, specifically in subheading 8716.80.5090, HTSUSA (Annotated), which provides for "...other vehicles, not mechanically propelled; ... : Other vehicles: Other: Other: Other." CBP has reviewed NY N019321 and has determined the ruling letter to be in error. It is now CBP's position that metal backroom restocking cart are is properly classified, by operation of GRI 1, in heading 9043, HTSUS, specifically in subheading 9403.20.0026, HTSUSA, which provides for "Other furniture and parts thereof: Other metal furniture: Other: Counters, lockers, racks, display cases, shelves, partitions and similar fixtures: Other".

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N019321 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H269233, set forth as an attachment to this notice. 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 ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: March 17, 2016

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H269233

March 17, 2016

CLA-2 OT: RR: CTF: TCM: H269233 ERB

CATEGORY: Classification

TARIFF NO.: 9403.20.0026

Ms. ANGIE DUNSTEN
EXPEDITORS TRADEWIN, LLC
11101 METRO AIRPORT CENTER DRIVE
BUILDING M2, SUITE 110
ROMULUS, MI 48174-1694

RE: Revocation of NY N019321; Tariff classification of a backroom restocking cart

DEAR Ms. DUNSTEN:

U.S. Customs and Border Protection (CBP) issued you, on behalf of Rite Aid Corporation, New York Ruling Letter (NY) N019321, on November 21, 2007. NY N019321 pertains to the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) of a backroom restocking cart (Item #30232). We have since reviewed NY N019321 and found it to be in error with regards to the tariff classification.

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), a notice was published in the *Customs Bulletin*, Volume 50, Numbers 2 & 3, on January 20, 2016, proposing to revoke NY N019321, and any treatment accorded to substantially similar transactions. No comments were received in response to the proposed revocation.

FACTS:

NY N019321 provides the following:

In your letter dated November 1, 2007, you requested a tariff classification ruling on behalf of Rite Aid Corporation of Camp Hill, Pennsylvania.

The item concerned is a Backroom Restocking Cart (Item # 30232). It is a steel, rectangular, four-wheeled cart that measures approximately 6 or 7 feet high by 5 feet wide. The Cart has 5 platform shelves and four steel posts, one at each corner.

The applicable classification subheading for the Backroom Restocking Cart (Item # 30232) will be 8716.80.5090, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “ ... other vehicles, not mechanically propelled; ... : Other vehicles: Other: Other: Other”. The rate of duty will be 3.2%.

ISSUE:

Whether a metal shelving restocking cart is classified as a vehicle, non-mechanically propelled, under heading 8716, HTSUS, or whether it is classified as racks, display cases, shelves, or similar fixtures, under heading 9403, HTSUS.

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration in this case are as follows:

8716	Trailers, and semi-trailers; other vehicles, not mechanically propelled; and parts thereof:
8716.80	Other vehicles

9403	Other furniture and parts thereof:
9403.20.00	Other metal furniture:
	Other:
	Counters, lockers, racks, display cases, shelves, partitions and similar fixtures:

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

The EN 87.16 provides, in relevant part:

The heading includes:

(B) Hand- or foot-propelled vehicles.

This group includes:

(3) Food carts, buffet trolleys (other than the type falling in heading 94.03), of a kind used in railway stations.

The EN 94.03 provides, in relevant part:

This heading covers furniture and parts thereof, not covered by the previous heading. It includes furniture for general use...other shelved furniture...and also furniture for special uses.

The heading includes furnitures for:

(5) Shops, stores, workshops, etc., such as: counters; dress racks; shelving units; compartment or drawer cupboards; cupboards for tools, etc.; special furniture (with cases or drawers) for printing works.

The General ENs to Chapter 94 state, in relevant part, with regard to the meaning of "furniture" classified therein, at Subsection (A) the following:

For the purposes of this Chapter, the term “furniture” means:

(A) Any “movable” articles (**not included** under other more specific headings of the Nomenclature), which have the essential characteristic that they are constructed for placing on the floor or ground, and which are used, mainly with a utilitarian purpose, to equip private dwellings, hotels, theatres, cinemas, offices, churches, schools, cafés, restaurants, laboratories, hospitals, dentists’ surgeries, etc. ...

Goods are classified in heading 8716, HTSUS, because they are used solely or principally for the transportation of goods from one location to another. *See* NY N201841, dated February 22, 2012 (classifying a metal cart where products are loaded onto the cart in one location and then moved via truck to a different location where the cart and its contents are unloaded. The cart is then transported by truck back to its original location where the process continues repeating itself); *and see* NY N059817, dated May 28, 2009 (classifying a multi-purpose hand truck).

Conversely, goods classified within the furniture provisions of chapter 94, specifically, within the shelved furniture provision of heading 9403, are not designed for the transportation of goods. These carts cannot be used solely or principally for the transportation of goods from location to location. Rather, as furniture, the carts must be of the type to fit and equip establishments with movable articles used in the readiness of an area for purposes of supporting various human activities. *See* NY N227676, dated August 20, 2012 (classifying various rolling metal shelves).

Upon review of the information contained in NY N019321, as well as a photograph included in the submission, the subject backroom restocking carts are not primarily constructed for the purposes of transportation of goods from one location to another, or for multiple locations, via commercial conveyance or personal vehicle. These carts are the types of carts ordinarily used by retail establishments to store items prior to their being displayed for customer purchase. They have multiple shelves for holding merchandise or other goods. Further, the sides are completely open for clear viewing of the goods contained thereon, which also makes the carts suitable for display purposes.

The carts may have a secondary use such as moving or distributing goods throughout a store, for stocking purposes. However, this intra-store movement is not equivalent to the long-haul movement associated with the trailers of heading 8716, HTSUS. Additionally, the subject goods are not described as a food carts or buffet trolleys of the kind used in railway stations which are provided for as included in heading 8716, HTSUS, pursuant to the EN 87.16(B)(3).

Accordingly, these carts fall within the definition of “furniture” and are classified in heading 9403, HTSUS, the provision which provides for racks, display cases and shelves. This is consistent with other rulings classifying identical or substantially similar goods. *See* NY N233415, dated October 16, 2012 (classifying rolling metal racks, referred to as food service carts).

HOLDING:

By application of GRI 1, the subject backroom restocking cart (Item #30232), is classified in heading 9403, HTSUS. It is specifically provided for under subheading 9403.20.0026, HTSUSA (Annotated), which provides for,

“Other furniture and parts thereof: Other metal furniture: Other: Counters, lockers, racks, display cases, shelves, partitions and similar fixtures: Other”. The column one, general rate of duty is free.

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 at www.usitc.gov

EFFECT ON OTHER RULINGS:

NY N019321, dated November 21, 2007, is hereby REVOKED.

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

ALLYSON MATTANAH

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



19 CFR PART 177

**REVOCATION OF TWO RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF HYDRAULIC BRAKING
SYSTEM PARTS**

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

ACTION: Notice of revocation of two ruling letters and revocation of treatment relating to the tariff classification of hydraulic braking system parts.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking two ruling letters concerning tariff classification of hydraulic braking system parts under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 50, No. 2 & 3, on January 20, 2016. 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 June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Laurance W. Frierson, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, at (202) 325-0371.

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) (“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 public 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. 50, No. 2 & 3, on January 20, 2016, proposing to revoke two ruling letters pertaining to the tariff classification of hydraulic braking system parts. As stated in the proposed notice, this action will cover New York Ruling Letter (“NY”) A85455, dated August 1, 1996, and Headquarters Ruling Letter (“HQ”) 952719, dated January 13, 1993, as well as 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 two identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should 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 in 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 notice.

In NY A85455, CBP classified certain automotive braking system parts in heading 8708, HTSUS, specifically in subheading 8708.39.50, HTSUS, which provides for "Parts and accessories of the motor vehicles of headings 8701 to 8705: Brakes and servo-brakes and parts thereof: Other: For other vehicles." Similarly, in ruling letter HQ 952719, CBP classified certain tractor hydraulic braking system parts in subheading 8708.39.10, HTSUS (1993), which provided for "Parts and accessories of the motor vehicles of headings 8701 to 8705: Brakes and servo-brakes and parts thereof: Other: For tractors suitable for agricultural use." CBP has reviewed ruling letters NY A85455 and HQ 952719 and has determined the ruling letters to be in error. It is now CBP's position that the hydraulic braking system parts are properly classified, by operation of GRI 1, in chapter 84, HTSUS, which provides, in pertinent part, for machinery, mechanical appliances, and the parts thereof.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking ruling letters NY A85455 and HQ 952719 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H222415, set forth as an attachment to this notice. 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 ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: March 24, 2016

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H222415

March 24, 2016

CLA-2 OT:RR:CTF:TCM H222415 LWF

CATEGORY: Classification

TARIFF NO.: 8412.21.00; 8412.90.90;
8413.50.00; 8413.91.90

MR. SAMUEL ZEKSER
SOBEL SHIPPING CO., INC.
170 BROADWAY
SUITE 1501
NEW YORK, NY 10038

RE: Revocation of New York Ruling Letter (NY) A85455, dated August 1, 1996, and Headquarters Ruling Letter (HQ) 952719, dated January 13, 1993; Classification of various parts of hydraulic braking systems for motor vehicles and tractors

DEAR MR. ZEKSER:

This letter is to inform you that U.S. Customs and Border Protection (CBP) has reconsidered New York Ruling Letter (NY) A85455, dated August 1, 1996, regarding the classification of certain hydraulic braking system parts for motor vehicles. In ruling letter NY A85455, CBP classified a brake wheel cylinder, brake master cylinder, and caliper piston under subheading 8708.39.50, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Parts and accessories of the motor vehicles of headings 8701 to 8705: Brakes and servo-brakes and parts thereof: Other: For other vehicles." CBP has reviewed ruling letter NY A85455 and finds the ruling to be in error. Accordingly, for the reasons set forth below, CBP is revoking ruling letter NY A85455.

Similarly, CBP believes that it can best meet its obligations under 19 C.F.R. § 177.7(a), regarding the sound administration of the HTSUS, by reconsidering certain published rulings so that CBP does not have in force rulings that may be inconsistent with its current views. Specifically, CBP is revoking Headquarters Ruling Letter (HQ) 952719, dated January 13, 1993, concerning the classification under the HTSUS of hydraulic braking systems for tractors.

In HQ 952719, CBP classified two models of compensating valve brake master cylinders, a brake fluid reservoir, and a brake fluid reservoir mounting bracket under subheading 8708.39.10, HTSUS, which provides for "Parts and accessories of the motor vehicles of headings 8701 to 8705: Brakes and servo-brakes and parts thereof: Other: For tractors suitable for agricultural use." CBP has reviewed ruling letter HQ 952719 and finds the ruling to be in error. Accordingly, for the reasons set forth below, CBP is revoking the ruling.

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 action was published in the *Customs Bulletin*, Vol. 50, No. 2 & 3, on January 20, 2016. No comments were received in response to the notice.

FACTS:

The instant merchandise is described as various subparts of hydraulic braking systems for motor vehicles. Hydraulic braking systems for motor vehicles use hydraulic pressure to transfer mechanical energy from a brake pedal to brake shoes located along the vehicle's wheels. The primary function of the brake master cylinder, therefore, is to generate hydraulic pressure within the braking system.

Hydraulic pressure within a hydraulic braking system is generated by the application of mechanical force on a brake pedal to drive a piston inside the brake master cylinder. As mechanical force is applied from the brake pedal to the piston, the piston transfers hydraulic fluid from the brake fluid reservoir into the hydraulic lines of the braking system, thereby pressurizing the system. The pressurized hydraulic fluid is then used to actuate brake wheel cylinders attached at the vehicle's wheels. The wheel cylinders convert the hydraulic pressure into mechanical energy by driving one or more caliper pistons against the vehicle's brake shoes, thereby engaging the brake liners and slowing the vehicle.

In NY A85455, CBP described the hydraulic braking system subparts at issue as follows:

The first item... is a Brake Wheel Cylinder [Part #XEW104418] is a T-shaped piece of metal with rounded ends. There are black, soft rubber caps over each rounded end of the crossbar of the "T" and two blue plugs in the bottom of the of the stand of the "T". The item is 3 17/20" in width, 1 17/20" in height and 4" in circumference.

The second item... is a Brake Master Cylinder [Part #XE98174]; it is a black, metal cylinder with an indented male connector and female connector on one end and an indented female connector on the other, wider end and on one side. There is a white, semi-transparent, hard plastic liquid container attached on top. The item measures 9" in length, 3" in circumference at the smaller end, 10" in circumference at the wider end and 4" in height including the liquid container.

The last item... is a Caliper Piston [Part #ZP8357]; it is a jar-shaped piece of metal with a circular opening on one end. It measures 2" in height and 7 3/5" in circumference.

In HQ 952719, CBP described the hydraulic braking system subparts at issue as follows:

The merchandise consists of two models of compensating valve brake master cylinders (part nos. 73067141 and 73067189), a brake fluid reservoir (part no. 73046077) and a brake fluid reservoir mounting bracket (part no. 64477544).

The compensating valve brake master cylinders are equipped with pushrods and are approximately 9" in length including the pushrod. The cylinder bore size ranges from .625" to 1" in diameter. The cylinders are designed for use in twin pedal braking systems. The brake fluid reservoir is designed to hold hydraulic mineral brake fluid in a capacity of 10.75 cu. in. (176 cc). The reservoir mounting bracket is exclusively designed to secure the brake fluid reservoir under consideration.

ISSUE:

Whether the brake master cylinders, brake wheel cylinder, caliper piston, compensating valve brake master cylinders, and brake fluid reservoir are properly classified under heading 8708, HTSUS, which provides for parts and accessories of motor vehicles, or in HTSUS Chapter 84, which provides for machinery and mechanical appliances.

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 HTSUS provisions under consideration are as follows:

8412	Other engines and motors, and parts thereof:
8412.21.00	Hydraulic power engines and motors: Linear acting (cylinders)... * * * * *
8412	Other engines and motors, and parts thereof:
8412.90	Parts:
8412.90.90	Other... * * * * *
8413	Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; part thereof:
8413.50.00	Other reciprocating positive displacement pumps... * * * * *
8413	Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; part thereof:
8413.91.90	Parts: Other... * * * * *
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
8708.30	Brakes and servo-brakes; parts thereof:
8708.30.10	For tractors suitable for agricultural use... * * * * *
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
8708.30	Brakes and servo-brakes; parts thereof:
8708.30.50	For other vehicles... * * * * *

Note 2 to Section XVI, HTSUS, states, in pertinent part:

Subject to note 1 to this section, note 1 to chapter 84 and to note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified in their respective headings;

- (a) Parts which are goods included in any of the headings of chapter 84 or 85 (other than the headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;
- (b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;

* * * * *

Note 2(e) to Section XVII, HTSUS, states, in pertinent part:

The expressions “*parts*” and “*parts and accessories*” do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

...

- (e) Machines or apparatus of headings 8401 to 8479...

* * * * *

The Explanatory Notes to the Harmonized Commodity Description and Coding System (ENs) represent the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The ENs to Heading 84.12 state, in pertinent part:

The heading includes reaction engines (other than turbo-jets), pneumatic power engines and motors, wind engines (windmills), spring-operated or weight-operated motors, etc., certain hydraulic power engines and motors, and certain steam or other vapour power unites.

...

(B) HYDARULIC POWER ENGINES AND MOTORS

This group includes:

...

- (3) **Hydraulic cylinders** consisting, for example, of a brass or steel barrel and a piston operated by oil (or other liquid) under pressure applied on one side (single-acting) of the piston, the energy of the liquid under pressure being converted into a linear motion. These cylinders are used on machine-tools, construction machinery, steering mechanisms, etc.

...

PARTS

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI) parts of the engines and motors of this heading are also classified here (e.g., combustion chambers and vents for jet engines, fuel feed regulators, fuel nozzles, windmill airwheels, cylinders, pistons, slide-valves, centrifugal ball or flyweight-type governors, connecting-rods).

* * * * *

The ENs to Heading 84.13 state, in pertinent part:

The machines of this heading can be subdivided, according to their system of operation, in the following five categories.

(A) RECIPROCATING POSITIVE DISPLACEMENT PUMPS

These use the linear suction or forcing action of a piston or plunger driven within a cylinder, the inlet and outlet being regulated by valves. "Single-acting" pumps utilize the thrust or suction of one end of the piston only; "double-acting" types pumps at both ends of the piston thus using both the forward and reverse strokes...

...

PARTS

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), parts of the goods of this heading are also classified here, e.g., pump housings or bodies; rods specially designed to connect and drive the piston in pumps placed at some distance from the prime mover (e.g., pumping rods, "sucker rods"); pistons, plungers, vanes; cams (lobes); helicoidal screws, impeller wheels, diffuser vanes; buckets and bucket-fitted chains; bands for band-type liquid elevators; pressure chambers.

* * * * *

The ENs to Section XVII, HS, state, in relevant part:

(III) PARTS AND ACCESSORIES

[...]

It should, however, be noted that [parts and accessories] headings apply **only** to those parts or accessories which comply with **all three** of the following conditions :

- (a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).
- (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below).
- (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

(A) **Parts and accessories excluded by Note 2 to Section XVII.**

This Note **excludes** the following parts and accessories, whether or not they are identifiable as for the articles of this Section :

[...]

(5) **Machines and mechanical appliances, and parts thereof, of headings 84.01 to 84.79**, for example:

- (d) Engines of all kinds including engines fitted with gear boxes and parts thereof, falling in headings 84.07 to 84.12.
- (e) Pumps, compressors and fans (heading 84.13 or 84.14).

[...]

(C) **Parts and accessories covered more specifically elsewhere in the Nomenclature.**

Parts and accessories, even if identifiable as for the articles of this Section, are **excluded** if they are covered more specifically by another heading elsewhere in the Nomenclature[.] (Emphasis original).

* * * * *

The EN to Heading 87.08 states, in pertinent part:

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05, **provided** the parts and accessories fulfill **both** the following conditions:

- (i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles; and
- (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

[...]

The heading **does not cover** hydraulic or pneumatic cylinders of **heading 84.12**. (Emphasis original).

* * * * *

In ruling letter NY A85455, CBP determined that a brake master cylinder, brake wheel cylinder, and caliper piston were properly classified under subheading 8708.39.50, HTSUS (1996), which provided for “Parts and accessories of the motor vehicles of headings 8701 to 8705: Brakes and servo-brakes and parts thereof: Other: For other vehicles.” Likewise, in HQ 952719, CBP concluded that compensating valve brake master cylinders, a brake fluid reservoir, and a brake fluid reservoir mounting bracket were classified under subheading 8708.39.10, HTSUS (1993), which provided for “Parts and accessories of the motor vehicles of headings 8701 to 8705: Brakes and servo-brakes and parts thereof: Other: For tractors suitable for agricultural use.”

As an initial matter, however, this office notes that the U.S. Court of International Trade (CIT) has provided guidance concerning the classification of merchandise as “parts of motor vehicles” of heading 8708, HTSUS, and has held that a subpart of a particular automotive part should not be classified in heading 8708, HTSUS, if that subpart is more specifically provided for elsewhere in the Nomenclature. *See Mitsubishi Elec. Am., Inc. v. United States*, 19 C.I.T. 378 (1995). Specifically, the CIT in *Mitsubishi* addressed the classification of an automotive “starter drive assembly” and noted that:

[I]f the subject merchandise is not a clutch, but rather a part of a starter motor, then it cannot be classified as a part of an automobile, even though it is used solely in automobiles. This is because a subpart of a particular part of an article is more specifically provided for as a part of the part than as a part of the whole. *Id.* at 383 n.3.

Similarly, because Note 2(e) to Section XVII, HTSUS, states that the terms “parts” and “parts and accessories” do not apply to articles classifiable in headings 8401 through 8479, HTSUS, CBP must first examine whether the articles classified in ruling letters NY A85455 and HQ 952719 are described by the terms of headings 8401 through 8479, HTSUS. *See also* EN 87.08, HS (“[Parts and accessories of heading 87.08, HS] must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).”).

With respect to the classification of brake master cylinders, CBP observes that heading 8413, HTSUS, provides, in relevant part, for “Pumps for liquids, whether or not fitted with a measuring device.” The term “pumps for liquids” is not defined in the Nomenclature; however, the ENs to heading 84.13, HS, describe the headings as covering certain “machines and appliances for raising or otherwise continuously displacing volumes of liquids.” Specifically, EN 84.13(A), HS, states that the heading includes “reciprocating positive displacement pumps” that employ “linear suction or forcing action of a piston or plunger driven within a cylinder” to displace volumes of liquid.

Upon review of the physical characteristics and functions of the brake master cylinders, CBP finds that the articles are properly described as pumps of heading 8413, HTSUS, because they are displacement pumps used to pressurize hydraulic fluid within a hydraulic braking system. Pistons located inside the brake master cylinders are manually operated by movement of the brake pedal, and the linear action of the pistons forces hydraulic fluid from the brake fluid reservoir into the hydraulic lines of the brake system. Accordingly, CBP observes that the function of the brake master cylinders is akin to the description of “reciprocating positive displace pumps” provided in EN 84.13(A), HS, and therefore concludes that the brake master cylinders are properly identified as pumps of heading 8413, HTSUS, by application of GRI 1. Specifically, they are classifiable in subheading 8413.50.00, HTSUS, which provides for “Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; parts thereof: Other reciprocating positive displacement pumps.” *See* NY N096530, dated March 30, 2010; NY N107239, dated June 10, 2010; NY N014493, dated June 24, 2007; and NY N011979, dated June 28, 2007.

With respect to the classification of the brake fluid reservoir and brake fluid reservoir mounting bracket, this office notes that CBP has previously classified parts of brake master cylinders in subheading 8413.91, HTSUS. *See* NY N109341, dated July 6, 2010; and NY N113336, dated July 23, 2010. Pursuant to Note 2(b) to Section XVI, HTSUS, parts of pumps for liquids, if suitable for use solely or principally with a machine of heading 8413, HTSUS, are to be classified with the machines of the same heading. Consequently, because the brake fluid reservoir and brake fluid reservoir mounting bracket supply hydraulic fluid to the brake master cylinder and are suitable for use solely or principally with master brake cylinders, the reservoir and the reservoir mounting bracket are classified as “parts” of heading 8413, HTSUS, pursuant

to Note 2(b) to Section XVI. Specifically, they are classified under subheading 8413.91.90, HTSUS, which provides for “Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; part thereof: Parts: Of pumps: Other.”

Because the brake master cylinders, brake fluid reservoir, and brake fluid reservoir mounting bracket are classified in heading 8413, HTSUS, their classification under heading 8708, HTSUS is precluded by operation of Note 2(e) to Section XVII, HTSUS.

Concerning the classification of the brake wheel cylinder, CBP observes that heading 8412, HTSUS, provides for, “Other engines and motors, and parts thereof.” Specifically, the ENs to heading 84.12, HS, describe the heading as covering certain hydraulic power engines and motors, including:

(3) **Hydraulic cylinders** consisting, for example, of a brass or steel barrel and a piston operated by oil (or other liquid) under pressure applied on one side (single-acting) or on both sides (double-acting) of the piston, the energy of the liquid under pressure being converted into a linear motion. These cylinders are used on machine-tools, construction machinery, steering mechanisms, etc. EN 84.12(B)(3), HS. (Emphasis original).

* * * * *

Upon review of the physical characteristics and function of the brake wheel cylinder, CBP finds that the brake wheel cylinder features pistons operated by pressurized hydraulic fluid. When hydraulic pressure is applied to the brake wheel cylinder, the movement of the pistons converts the hydraulic pressure into mechanical force to move the vehicle’s brake shoes. Accordingly, CBP observes that the brake wheel cylinder is akin in both form and function to the “hydraulic cylinder” exemplar described by the ENs to heading 84.12, HS, and is properly classified, by application of GRI 1, in heading 8412, HTSUS. Specifically, the brake wheel cylinder is classifiable in subheading 8412.21.00, HTSUS. *See* NY N091357, dated February 1, 2010.

With respect to the classification of the caliper piston, this office again notes that pursuant to Note 2(b) to Section XVI, HTSUS, parts of hydraulic power engines and motors, if suitable for use solely or principally with a machine of heading 8412, HTSUS, are to be classified with the machines of the same heading. Consequently, because the caliper piston is necessary for the proper functioning of the brake wheel cylinder and is suitable for use solely or principally within the brake wheel cylinder, the caliper piston is classified in heading 8412, HTSUS, as a part of a linear acting cylinder. Specifically, it is classified under subheading 8412.90.90, HTSUS, which provides for “Other engines and motors, and parts thereof: Parts: Other.”

Because the brake wheel cylinder and caliper piston are classified in heading 8412, HTSUS, their classification under heading 8708, HTSUS is precluded by operation of Note 2(e) to Section XVII, HTSUS.

HOLDING:

By application of GRIs 1 (Note 2(a) to Section XVI) and 6, the brake master cylinders are classified under heading, 8413, HTSUS, specifically in subheading 8413.50.00, HTSUS, which provides for “Pumps for liquids, whether or

not fitted with a measuring device; liquid elevators; part thereof: Other reciprocating positive displacement pumps.” The column one, general rate of duty is Free.

By application of GRIs 1 (Note 2(b) to Section XVI), the brake fluid reservoir and brake fluid reservoir mounting bracket are classified under heading, 8413, HTSUS, specifically in subheading 8413.91.90, HTSUS, which provides for “Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; part thereof: Parts: Of pumps: Other.” The column one, general rate of duty is Free.

By application of GRIs 1 (Note 2(a) to Section XVI) and 6, the brake wheel cylinder is classified under heading, 8412, HTSUS, specifically in subheading 8412.21.00, HTSUS, which provides for “Other engines and motors, and parts thereof: Hydraulic power engines and motors: Linear acting (cylinders).” The column one, general rate of duty is Free.

By application of GRIs 1 (Note 2(b) to Section XVI), the caliper piston is classified under heading, 8412, HTSUS, specifically in subheading 8412.90.90, HTSUS, which provides for “Other engines and motors, and parts thereof: Parts: Other.” The column one, general rate of duty is Free.

Duty rates are provided for convenience only 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*.

EFFECT ON OTHER RULINGS:

In accordance with the above analysis, ruling letters NY A85455, dated August 1, 1996, and HQ 952719, dated January 13, 1993, are hereby **REVOKED**.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

19 CFR PART 177

REVOCATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF CLUTCH MASTER CYLINDERS AND CLUTCH SLAVE CYLINDERS

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

ACTION: Notice of revocation of two ruling letters and revocation of treatment relating to the tariff classification of clutch master cylinders and clutch slave cylinders.

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 Modern-

ization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking two ruling letters concerning tariff classification of clutch master cylinders and clutch slave cylinders under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the of the proposed action was published in the *Customs Bulletin*, Vol. 50, No. 2 & 3, on January 20, 2016. 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 June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Laurance W. Frierson, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, at (202) 325–0371.

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) (“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 public 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. 50, No. 2 & 3, on January 20, 2016, proposing to revoke two ruling letters pertaining to the tariff classification of clutch master cylinders and clutch slave cylinders. As stated in the proposed notice, this action will cover New York Ruling Letters (“NY”) A86849, dated September 10, 1996, and NY A85456, dated August 6, 1996, as well as 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 two identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should 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 in 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 notice.

In ruling letters NY A86849 and NY A85456, CBP classified certain clutch master cylinders and clutch slave cylinders in heading 8708, HTSUS, specifically in subheading 8708.93.75, HTSUS (1996), which provides for “Parts and accessories of the motor vehicles of heading 8701 to 8705: Other parts and accessories: Clutches and parts thereof: For other vehicles: Other.” CBP has reviewed NY A86849 and NY A85456 and has determined the ruling letters to be in error. It is now CBP’s position that the clutch master cylinders are classified in heading 8413, HTSUS, which provides for “Pumps for liquids, whether or not fitted with a measuring device; liquid elevators,” and that the clutch slave cylinders are classified in heading 8412, HTSUS, which provides for “Other engines and motors, and parts thereof.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking ruling letters NY A86849 and NY A85456 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter (“HQ”) H195876, set forth as an attachment to this notice. 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 ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: March 24, 2016

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H195876

March 24, 2016

CLA-2 OT:RR:CTF:TCM H195876 LWF

CATEGORY: Classification

TARIFF NO.: 8412.21.00; 8413.50.00

MR. SAMUEL ZEKSER
SOBEL SHIPPING CO., INC.
170 BROADWAY, SUITE 1501
NEW YORK, NY 10038

RE: Revocation of New York Ruling Letters (“NY”) A85456, dated August 6, 1996, and NY A86849, dated September 10, 1996; Classification of parts of clutch master cylinders and clutch slave cylinders for motor vehicles

DEAR MR. ZEKSER:

This letter is to inform you that U.S. Customs and Border Protection (CBP) has reconsidered New York Ruling Letter (“NY”) A85456, dated August 6, 1996, concerning the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of a clutch master cylinder and clutch slave cylinder for motor vehicles. In ruling letter NY A85456, CBP classified a clutch master cylinder and clutch slave cylinder under subheading 8708.93.75, HTSUS, which provides for, “Parts and accessories of the motor vehicles of heading 8701 to 8705: Other parts and accessories: Clutches and parts thereof: For other vehicles: Other.” CBP has reviewed ruling letter NY A85456 and finds the ruling to be incorrect. Accordingly, for the reasons set forth below, CBP is revoking NY A85456.

Similarly, CBP believes that it can best meet its obligations regarding the sound administration of the HTSUS under 19 C.F.R. § 177.7(a) by reconsidering certain published rulings so that CBP does not have in force rulings that may be inconsistent with its current views. Specifically, CBP is also revoking ruling letter NY A86849, issued to you on September 10, 1996, and which concerned the classification of an identical clutch master cylinder and clutch slave cylinder under subheading 8708.93.75, HTSUS.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed action was published in the *Customs Bulletin*, Vol. 50, No. 2 & 3, on January 20, 2016. No comments were received in response to the notice.

FACTS:

The instant merchandise is described as a clutch master cylinder and a clutch slave cylinder for a motor vehicle hydraulic clutch system. Hydraulic clutch systems use hydraulic pressure to transfer mechanical energy from a vehicle’s clutch pedal to the clutch pressure plate, thereby allowing the driver of an automobile to manually disengage the rotational movement of the engine from the vehicle’s transmission. The primary function of the clutch master cylinder, therefore, is to generate hydraulic pressure within the clutch system. The application of mechanical force on the clutch pedal drives pistons inside the clutch master cylinder that transfer and pressurize hydraulic fluid from the clutch master cylinder reservoir into the hydraulic lines of the clutch system. Conversely, the clutch slave cylinder converts hydraulic pressure

generated by the clutch master cylinder into the mechanical energy that is ultimately used to move the clutch pressure plate.

In ruling letter NY A85456, CBP described the hydraulic clutch system parts as follows:

The first item... concerned is a Clutch Master Cylinder (Part #XE150454). It is a piece of gray metal, solid on one end and with a brass-colored, extended connector on the other. It has two brass screws attached, a copper fitting on its side and a white and black, transparent liquid container on top. The item measures 9" in length x 4" in width (at its widest point) and 4" in height.

The second item... is a Clutch Slave Cylinder (Part #XEW155162). It is a piece of black metal, shamrock-shaped on one end and with a soft, rubber billows coming to a gray, metal point on the other. It measures 6"L x 3"W, at its widest point.

* * * * *

ISSUE:

Whether the clutch master cylinder is classified in heading 8708, HTSUS, as parts and accessories of the motor vehicles of headings 8701 to 8705, or heading 8413, HTSUS, as pumps for liquids.

Whether the clutch slave cylinder is classified in heading 8708, HTSUS, as parts and accessories of the motor vehicles of headings 8701 to 8705, or heading 8412, HTSUS, as other engines and motors.

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 following HTSUS provisions will be referenced:

8412	Other engines and motors, and parts thereof:
8413	Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; parts thereof:
8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:

* * * * *

Note 2(a) to Section XVI, HTSUS, states:

Subject to note 1 to this section, note 1 to chapter 84 and to note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified in their respective headings;

- (c) Parts which are goods included in any of the headings of chapter 84 or 85 (other than the headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

* * * * *

Note 2(e) to Section XVII, HTSUS, states, in relevant part:

The expressions “*parts*” and “*parts and accessories*” do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

...

- (e) Machines or apparatus of headings 8401 to 8479, or parts thereof; articles of heading 84.81 or 84.82 or, provided they constitute integral parts of engines or motors, articles of heading 84.43;

* * * * *

The Explanatory Notes to the Harmonized Commodity Description and Coding System (ENs) represent the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The ENs to heading 84.12, HS, state, in relevant part:

The heading includes reaction engines (other than turbo-jets), pneumatic power engines and motors, wind engines (windmills), spring-operated or weight-operated motors, etc., certain hydraulic power engines and motors, and certain steam or other vapour power unites.

...

(B) HYDARULIC POWER ENGINES AND MOTORS

This group includes:

...

- (3) **Hydraulic cylinders** consisting, for example, of a brass or steel barrel and a piston operated by oil (or other liquid) under pressure applied on one side (single-acting) of the piston, the energy of the liquid under pressure being converted into a linear motion. These cylinders are used on machine-tools, construction machinery, steering mechanisms, etc.

* * * * *

The ENs to heading 84.13, HS, state, in relevant part:

The machines of this heading can be subdivided, according to their system of operation, in the following five categories.

(B) RECIPROCATING POSTIVE DISPLACEMENT PUMPS

These use the linear suction or forcing action of a piston or plunger driven within a cylinder, the inlet and outlet being regulated by valves. “Single-acting” pumps utilize the thrust or suction of one end of the piston only; “double-acting” types pumps at both ends of the piston thus using both the forward and reverse strokes...

* * * * *

The ENs to Section XVII, HS, state, in relevant part:

(III) PARTS AND ACCESSORIES

[...]

It should, however, be noted that [parts and accessories] headings apply **only** to those parts or accessories which comply with **all three** of the following conditions :

- (a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).
- (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below).
- (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

(B) Parts and accessories excluded by Note 2 to Section XVII.

This Note **excludes** the following parts and accessories, whether or not they are identifiable as for the articles of this Section :

[...]

- (5) **Machines and mechanical appliances, and parts thereof, of headings 84.01 to 84.79**, for example:
 - (d) Engines of all kinds including engines fitted with gear boxes and parts thereof, falling in headings 84.07 to 84.12.
 - (e) Pumps, compressors and fans (heading 84.13 or 84.14).

[...]

(C) Parts and accessories covered more specifically elsewhere in the Nomenclature.

Parts and accessories, even if identifiable as for the articles of this Section, are **excluded** if they are covered more specifically by another heading elsewhere in the Nomenclature[.] (Emphasis original).

* * * * *

The ENs to heading 87.08, HS, state, in relevant part:

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05, **provided** the parts and accessories fulfill **both** the following conditions:

- (iii) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles; and
- (iv) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

[...]

- (C) Clutches (cone, plate, hydraulic, automatic, etc., but **not** the electromagnetic clutches of **heading 85.05**), clutch casings, plates and levers, and mounted linings.

[...]

- (L) Control equipment, for example, steering wheels, steering columns and steering boxes, steering wheel axles; gear-change and hand-brake levers; accelerator, brake and clutch pedals; connecting-rods for brakes, clutches.

[...]

The heading **does not cover** hydraulic or pneumatic cylinders of **heading 84.12**. (Emphasis original).

* * * * *

In ruling letter NY A85456 and NY A86849, CBP determined that a clutch master cylinder and clutch slave cylinder were properly classified under heading 8708, HTSUS (1996), which provides for “Parts and accessories of the motor vehicles of heading 8701 to 8705.” As an initial matter, however, this office notes that the U.S. Court of International Trade (CIT) has provided guidance concerning the classification of merchandise as “parts of motor vehicles” of heading 8708, HTSUS, and has held that a subpart of a particular automotive part should not be classified in heading 8708, HTSUS, if that subpart is more specifically provided for elsewhere in the Nomenclature. See *Mitsubishi Elec. Am., Inc. v. United States*, 19 C.I.T. 378 (1995). Specifically, the CIT in *Mitsubishi* addressed the classification of an automotive “starter drive assembly” and noted that:

[I]f the subject merchandise is not a clutch, but rather a part of a starter motor, then it cannot be classified as a part of an automobile, even though it is used solely in automobiles. This is because a subpart of a particular part of an article is more specifically provided for as a part of the part than as a part of the whole. *Id.* at 383 n.3.

Similarly, because Note 2(e) to Section XVII, HTSUS, states that the terms “parts” and “parts and accessories” do not apply to articles classifiable in headings 8401 through 8479, HTSUS, CBP must first examine whether the clutch master cylinder and clutch slave cylinder are classifiable in headings 8401 through 8479, HTSUS, before the merchandise can be classified as “parts and accessories” in heading 8708, HTSUS. See also EN 87.08, HS (“[Parts and accessories of heading 87.08, HS] must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).”).

With respect to the classification of the clutch master cylinder, CBP observes that heading 8413, HTSUS, provides, in relevant part, for “Pumps for liquids, whether or not fitted with a measuring device.” The term “pumps for liquids” is not defined in the Nomenclature; however, the ENs to heading 84.13, HS, describe the headings as covering certain “machines and appliances for raising or otherwise continuously displacing volumes of liquids.” Specifically, EN 84.13(A), HS, states that the heading includes “reciprocating positive displacement pumps” that employ “linear suction or forcing action of a piston or plunger driven within a cylinder” to displace volumes of liquid.

Upon review of the physical characteristics and function of the instant clutch master cylinder, CBP finds that the article is properly described as a pump of heading 8413, HTSUS, because it is a displacement pump that is used to pressurize hydraulic fluid within a hydraulic clutch system. Pistons located inside the clutch master cylinder are manually operated by movement of the clutch pedal, and the linear action of the pistons forces hydraulic

fluid from the hydraulic fluid reservoir into the hydraulic lines of the clutch system. Accordingly, CBP observes that the function of the clutch master cylinder pistons to pressurize fluid within a hydraulic clutch system is akin to the description of “reciprocating positive displace pumps” provided in EN 84.13(A), HS, and therefore concludes the clutch master cylinder is properly identified as a pump of heading 8413, HTSUS. Specifically, the clutch master cylinder is classifiable, by application of GRI 1, in subheading 8413.50.00, HTSUS, which provides for, “Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; parts thereof: Other reciprocating positive displacement pumps.” See NY N096530, dated March 30, 2010; NY N107239, dated June 10, 2010; NY N014493, dated June 24, 2007; and NY N011979, dated June 28, 2007.

With respect to the classification of the clutch slave cylinder, CBP observes that heading 8412, HTSUS, provides for, “Other engines and motors, and parts thereof.” Specifically, the ENs to heading 84.12, HS, describe the heading as covering certain hydraulic power engines and motors, including:

- (3) **Hydraulic cylinders** consisting, for example, of a brass or steel barrel and a piston operated by oil (or other liquid) under pressure applied on one side (single-acting) or on both sides (double-acting) of the piston, the energy of the liquid under pressure being converted into a linear motion. These cylinders are used on machine-tools, construction machinery, steering mechanisms, etc. EN 84.12(B)(3), HS. (Emphasis original).

Upon review of the physical characteristics and function of the clutch slave cylinder at issue in ruling letters NY A85456 and NY 86849, CBP finds that the slave cylinder features pistons operated by pressurized hydraulic fluid. When hydraulic pressure is applied, the movement of the pistons converts the hydraulic pressure into mechanical force to move a clutch pressure plate. Accordingly, CBP observes that the clutch slave cylinder is akin in both form and function to the “hydraulic cylinder” exemplar described in the ENs to heading 84.12, HS, and is properly classified, by application of GRI 1, in heading 8412, HTSUS. Specifically, the clutch slave cylinder is classifiable in subheading 8412.21.00, HTSUS. See NY N091357, dated February 1, 2010.

Because the clutch master cylinder and clutch slave cylinder are classifiable in headings 8413 and 8412, HTSUS, respectively, their classification under heading 8708, HTSUS, is precluded by operation of Note 2(e) to Section XVII, HTSUS.

HOLDING:

By application of GRIs 1 (Note 2(a) to Section XVI) and 6, the clutch master cylinder is classified under heading, 8413, HTSUS, specifically in subheading 8413.50.00, HTSUS, which provides for “Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; part thereof: Other reciprocating positive displacement pumps.” The column one, general rate of duty is Free.

By application of GRIs 1 (Note 2(a) to Section XVI) and 6, the clutch slave cylinder is classified under heading, 8412, HTSUS, specifically in subheading 8412.21.00, HTSUS, which provides for “Other engines and motors, and parts thereof: Hydraulic power engines and motors: Linear acting (cylinders).” The column one, general rate of duty is Free.

Duty rates are provided for convenience only 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 <http://www.usitc.gov>.

EFFECT ON OTHER RULINGS:

In accordance with the above analysis, NY A85456, dated August 6, 1996, and NY A86849, dated September 10, 1996, are hereby **REVOKED**.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



19 CFR PART 177

**REVOCATION OF TWO RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CERTAIN NOZZLES FOR
THE DISPERSING OR SPRAYING OF HIGH-PRESSURE
LIQUIDS**

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

ACTION: Notice of revocation of ruling letters and revocation of treatment relating to the tariff classification of certain nozzles for the dispersing or spraying of high-pressure liquids.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking two ruling letters concerning tariff classification of certain nozzles for the dispersing or spraying of high-pressure liquids under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 50, No. 2 & 3, on January 20, 2016. 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 June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Laurance W. Frierson, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, at (202) 325-0371.

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) (“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 public 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. 50, No. 2 & 3, on January 20, 2016, proposing to revoke two ruling letters pertaining to the tariff classification of certain nozzles for the dispersing or spraying of high-pressure liquids. As stated in the proposed notice, this action will cover New York Ruling Letter (“NY”) N162918, dated May 26, 2011, and NY C87376, dated May 14, 1998, as well as 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 two identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should 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 in 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 notice.

In ruling letter NY N162918, CBP classified two stainless steel sewer cleaning nozzles with steel inserts from Germany, the Standard Nozzle (Part No. 1-0133-6020) and the Chisel Nozzle (Part No. 1-0212-8020S), in heading 7326, HTSUS, specifically in subheading 7326.90.85, HTSUS, which provides for "Other articles of iron or steel: Other: Other: Other: Other." CBP has reviewed NY N162918 and has determined the ruling letter to be in error. It is now CBP's position that the nozzles are properly classified in heading 8424, HTSUS, specifically in subheading 8424.90.90, HTSUS, which provides for "Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof: Parts: Other."

In ruling letter NY C87376, CBP classified certain TWK-model cleaning heads, used to clean tanks, reactors, pipes, totes, vessels, and other enclosed spaces, were classified in heading 8424, HTSUS, specifically in subheading 8424.89, HTSUS, which provides for "Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof: Other appliances." CBP has reviewed NY C87376 and has determined the ruling letter to be in error. It is now CBP's position that the TWK-model cleaning heads are properly classified in heading 8424, HTSUS, specifically in subheading 8424.90.90, HTSUS, which provides for "Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof: Parts: Other."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking ruling letters NY N162918 and NY C87376 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H185723, set forth as an attach-

ment to this notice. 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 ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: March 24, 2016

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H185723

March 24, 2016

CLA-2 OT:RR:CTF:TCM H185723 LWF

CATEGORY: Classification

TARIFF NO.: 8424.90.90

REINHART LAIMER

USB-SEWER EQUIPMENT CORPORATION

1700 ENTERPRISE WAY

SUITE 116

MARIETTA, GA 30067

RE: Revocation of two ruling letters concerning the tariff classification of certain nozzles for the dispersing or spraying of high-pressure liquids; New York Ruling Letter (“NY”) N162918, dated May 26, 2011; and NY C87376, dated May 14, 1998

DEAR MR. LAIMER:

This is in reference to your request for reconsideration of New York Ruling Letter (“NY”) N162918, dated May 26, 2011, concerning the tariff classification under the Harmonized Tariff Schedule of United States (HTSUS) of certain nozzles for the dispersing or spraying of high-pressure liquids (the “Nozzles”). In ruling letter NY N162918, U.S. Customs and Border Protection (CBP) classified the Nozzles under subheading 7326.90.85, HTSUS, which provides for “Other articles of iron or steel: Other: Other: Other: Other.” Upon review of NY N162918, CBP has determined that the ruling is incorrect. Accordingly, for the reasons set forth below, CBP is revoking ruling letter NY N162918.

Similarly, CBP believes that it can best meet its obligations regarding the sound administration of the HTSUS under 19 C.F.R. § 177.7(a) by reconsidering certain published rulings so that CBP does not have in force rulings that may be inconsistent with its current views. As such, CBP is also revoking ruling letter NY C87376, dated May 14, 1998, regarding the classification of certain TWK-model cleaning heads (the “Cleaning Heads”), used to clean tanks, reactors, pipes, totes, vessels, and other enclosed spaces with high-pressure water. In NY C87376, CBP classified the Cleaning Heads under subheading 8424.89, HTSUS, which provides for “Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof: Other appliances: Other.” Similar to its review of NY N162918, CBP has determined that ruling letter NY C87376 is incorrect. Accordingly, CBP is revoking NY C87376.

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 action was published in the *Customs Bulletin*, Vol. 50, No. 2 & 3, on January 20, 2016. No comments were received in response to the notice.

FACTS:

The merchandise at issue in ruling letter NY N162918 consists of two types of nozzle heads used in sewer cleaning operations for clearing pipes and channels (the “Nozzles”). The first nozzle, the Standard Nozzle (Part No.

1-0133-6020), is described as a stainless steel nozzle with steel inserts. Similarly, the second nozzle, the Chisel Nozzle (Part No. 1-0212-8020S), is described as a stainless steel nozzle with steel inserts and an optional drill point attached to the nose of the article. Unlike the Standard Nozzle, the Chisel Nozzle also features small holes located at the front of the nozzle that direct water spray forward, thereby increasing the nozzle's ability to penetrate obstructions and clear blockages and pipe deformations.

The Nozzles are operated by a supply of high pressure water, generated by a vehicle-mounted compressor and fed to the Nozzles via a high pressure hose. As pressurized water enters the Nozzles, the water is expelled backwards through small holes located along the sides and/or butt of the Nozzles, driving the device and attached hose forward through the sewer line. Additional openings along the sides of the Nozzles create high-pressure water jets that can blast and remove blockages, debris, and residue as the device advances through sewer piping. As the operator withdraws the extended Nozzle and attached hose from the sewer, the water jets are used to flush and clean the sewer line from obstructions such as sand, silt, and other debris. The Nozzles do not require lubrication because they are not hydraulically, pneumatically, or electrically operated and do not contain any valves. The Nozzles are imported separately and are not packaged for retail sale at the time of importation.

Similarly, in ruling letter NY C87376, CBP described certain "TWK-model cleaning heads" (the "Cleaning Heads"), as follows:

TWK-model cleaning heads, which are cleaning devices that are used to clean tanks, reactors, pipes, totes, vessels and other enclosed spaces. The cleaning heads are tools used with high pressure water. They require a clean water source, a high pressure pump, high pressure hose and a device for positioning the cleaning head. The cleaning head is positioned in the vessel and the pump is brought up to pressure to feed high pressure water to the cleaning head via the hose. When the water reaches the cleaning head, the force of the water is used to turn the cleaning head which in turn blasts the wall of the vessel with the water. The cleaning force of the water jets clean the vessel walls by cutting through the surface contaminants and removing them via a drain below. The cleaning heads can fit into openings ranging from 4 inches and up. The cleaning heads are used mostly as tools for existing cleaning systems.

* * * * *

ISSUE:

Whether the Nozzles and Cleaning Heads are properly classified under heading 7326, HTSUS, as other articles of iron or steel, or under heading 8424, as parts of mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders.

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States (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 of Chapter Notes. In the event that the goods cannot be classified

solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The following HTSUS provisions will be referenced:

7326	Other articles of iron or steel: * * * * *
8424	Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof: [...] Other appliances: [...]
8424.89.00:	Other:
8424.90:	Parts: [...]
8424.90.90:	Other: * * * * *

Note 2(b) to Section XVI, HTSUS, states:

Subject to note 1 to this section, note 1 to chapter 84 and to note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified in their respective headings;

...

- (d) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HTS and are thus useful in ascertaining the proper classification of merchandise. It is CBP's practice to follow, whenever possible the terms of the ENs when interpreting the HTSUS. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The General Explanatory Note to Section XVI explains, in pertinent part:

(II) PARTS

(Section Note 2)

In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or

apparatus subject, of course, to the **exclusions** mentioned in Part (I) above...

Other parts which are recognisable as such, but are not suitable for use solely or principally with a particular machine or class of machine (i.e., which may be common to a number of machines falling in different headings), are classified in heading 84.87 (if not electrical) or in heading 85.48 (if electrical), unless they are **excluded** by the provisions set out above.

* * * * *

The EN to heading 84.24, HS, states, in pertinent part:

This heading covers machines and appliances for projecting, dispersing or spraying steam, liquids or solid materials (e.g., sand, powders, granules, grit or metallic abrasives) in the form of a jet, a dispersion (whether or not in drips) or a spray..

(C) STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES

Sand blasting machines and the like are often of heavy construction and sometimes incorporate compressors. They are used for de-scaling or cleaning metal articles... by subjecting the articles to the action of high pressure jets of sand, metal abrasives, etc...

PARTS

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), the heading includes parts for the appliances and machines of this heading. Parts falling in this heading thus include, *inter alia*, reservoirs for sprayers, spray nozzles, lances and turbulent sprayer heads not of a kind described in **heading 84.81**.

* * * * *

Heading 8424, HTSUS, provides for “Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof.” Similarly, the EN to heading 84.24, HS, states that the heading includes “parts for the appliances and machines of this heading... [and] thus include, *inter alia*, reservoirs for sprayers, **spray nozzles**, lances and **turbulent sprayer heads not of a kind described in heading 84.81**.” (Emphasis added).

Pursuant to Note 2(b) to Section XVI, HTSUS, parts of machines, if suitable for use solely or principally with a particular kind of machine, are to be classified with the machines of the same heading. We find that the instant Nozzles are attached via a hose to vehicle-mounted sewer cleaning machines that employ high-pressure water jets to remove pipe blockages, debris, and residue. The sewer cleaning machine consists of a high pressure water pump which feeds pressurized water to the Nozzles. As the pressurized water is expelled through small openings along the sides and butt of the Nozzles, high pressure water jets are created which propel the Nozzles forward and scour the sides of the pipe, thereby removing blockages, debris, and residue. Therefore, inasmuch as the sewer cleaning machine produces high pressure water

jets for the purpose of cleaning sewer pipes and is similar to the jet projecting machines described by EN 84.24, we find that the machine is most specifically described by heading 8424, HTSUS. *See also* HQ 964635, dated January 4, 2001; HQ 964637, dated January 4, 2001; HQ 964666, dated January 4, 2001; and NY I81078, dated April 26, 2002.

The instant Nozzles are described as a type of spray nozzle or turbulent sprayer head, specifically designed to attach to a sewer cleaning machine and produce high pressure jets of water to remove blockages, debris, and residue from pipes and similar vessels. As such, they are not suitable for use as general parts. Consequently, inasmuch as the Nozzles are suitable for use solely or principally with the spraying machines, they are classified in heading 8424, HTSUS, as parts of a jet projecting machine, per Note 2(b) to Section XVI, HTSUS. Specifically, they are classified under subheading 8424.90.90, HTSUS, which provides for “Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof: Parts: Other.”

Our analysis also applies to the classification of Chemac Inc’s TWK-model cleaning heads (the “Cleaning Heads”), which CBP classified in ruling letter NY C87376 under subheading 8424.89.70, HTSUS, the 1998 provision for “Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof: Other appliances: Other.”

In NY C87376, CBP described the Cleaning Heads as devices used to clean tanks, reactors, pipes, totes, vessels, and other enclosed spaces. Similar to the instant Nozzles, the Cleaning Heads are attached to a high pressure water pump via a pressure hose. High pressure water is fed to the Cleaning Head via the hose, and when the water reaches the Cleaning Head, the force of the water is used to propel the device, thereby projecting high-pressure jets of water against the walls of the vessel. The cleaning force of the water jets clean the vessel walls by blasting through surface contaminants.

Because the physical characteristics and function of the Cleaning Heads are substantially similar to the Nozzles, we find that they are appropriately described as parts of a water-jet cleaning system. Consequently, the Cleaning Heads are properly classified, pursuant to Note 2(b) to Section XVI, HTSUS, in subheading 8424.90.90, HTSUS, which provides for “Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof: Parts: Other.”

HOLDING:

By application of GRIs 1 (Note 2(b) to Section XVI) and 6, the Nozzles and Clean Heads are classified under heading 8424, HTSUS, specifically in subheading 8424.90.90, HTSUS, which provides for “Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and

similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof: Parts: Other.” The column one, general rate of duty is Free.

Duty rates are provided for 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 <http://www.usitc.gov>.

EFFECT ON OTHER RULINGS:

In accordance with the above analysis, ruling letters NY N162918, dated May 26, 2011, and NY C87376, dated May 14, 1998, are hereby REVOKED.

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

Sincerely,

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division



19 CFR PART 177

REVOCATION OF FOUR RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF PARTS OF FRONT- DIFFERENTIAL AND REAR-DIFFERENTIAL ASSEMBLIES FOR MOTOR VEHICLES

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

ACTION: Notice of revocation of four ruling letters and revocation of treatment relating to the tariff classification of parts of front-differential and rear-differential assemblies for motor vehicles.

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 four ruling letters concerning tariff classification of parts of front-differential and rear-differential assemblies for motor vehicles under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 50, No. 2 & 3, on January 20, 2016. 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 June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Laurance W. Frierson, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, at (202) 325-0371.

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) (“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 public 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. 50, No. 2 & 3, on January 20, 2016, proposing to revoke four ruling letters pertaining to the tariff classification of parts of front-differential and rear-differential assemblies for motor vehicles. As stated in the proposed notice, this action will cover New York Ruling Letters (“NY”) N009213, dated April 10, 2007, NY N009215, dated April 12, 2007, NY N186430, dated September 30, 2011, and NY N186432, dated September 30, 2011, as well as 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 four identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice

memorandum or decision, or protest review decision) on the merchandise subject to this notice should 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 in 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 notice.

In ruling letters NY N009213 and N009215, CBP classified certain parts of front-differential and rear-differential assemblies for motor vehicles in heading 8708, HTSUS, specifically subheading 8708.99.68, HTSUS, which provides for "Parts and accessories of the motor vehicles of headings 8701 to 8705: Other parts and accessories: Other: Other: Other: Other: Other parts for power trains." It is now CBP's position that the parts of front-differential and rear-differential assemblies are properly classified, by operation of General Rules of Interpretation (GRIs) 1 and 6, in subheading 8708.50.89, HTSUS, which provides for "Parts and accessories of the motor vehicles of headings 8701 to 8705: Drive-axels with differential, whether or not provided with other transmission components, and non-driving axels; parts thereof: Parts: For vehicles of heading 8703: Other: Other: Other."

In parallel with the revocation of ruling letters NY N009213 and N009215, CBP believes that it can best meet its obligations regarding the sound administration of the HTSUS and other customs and related laws by also revoking ruling letters NY N186430 and N186432. *See* 19 C.F.R. § 177.7(a). In ruling letters NY N186430 and N186432, CBP reclassified the same parts of front-differential and rear-differential assemblies at issue in prior ruling letters NY N009213 and N009215 under subheading 8708.50.89, HTSUS. However, although CBP stated in ruling letters NY N186430 and N186432 that the ruling letters were being issued "to correct" previous ruling letters N009213 and N009215, CBP did not initiate a notice and comment procedure pursuant to 19 U.S.C. § 1625(c) to propose to revoke the prior ruling letters. Consequently, because CBP did not revoke ruling letters NY N009213 and N009215 pursuant to the requirements of 19 U.S.C. § 1625(c), NY N009213 and N009215 remain valid until this action is finalized.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking ruling letters NY N009213, N009215, N186430, and N186432 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter (“HQ”) H191698, set forth as an attachment to this notice. 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 ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: March 24, 2016

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H191698

March 24, 2016

CLA-2 OT:RR:CTF:TCM H191698 LWF

CATEGORY: Classification

TARIFF NO.: 8708.50.89

MS. LAURIE PEACH, MANAGER-CUSTOMS
AMERICAN HONDA MOTOR CO., INC.
1919 TORRANCE BLVD.
TORRANCE, CA 90501-2722

RE: Revocation of New York Ruling Letters (NY) N009213, N009215, N186430, and N186432; Classification of certain parts of front-differential and rear-differential assemblies for motor vehicles

DEAR MS. PEACH:

This letter is in reference to four ruling letters issued by U.S. Customs and Border Protection (CBP) to American Honda Motor Co., Inc. (Honda), concerning the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of certain parts of front-differential and rear-differential assemblies for motor vehicles. Specifically, in New York Ruling Letters (NY) N009213, dated April 10, 2007, and N009215, dated April 12, 2007, CBP classified certain parts of front-differential and rear-differential assemblies (“differential assembly parts”) in subheading 8708.99.68, HTSUS, which provides for “Parts and accessories of the motor vehicles of headings 8701 to 8705: Other parts and accessories: Other: Other: Other: Other parts for power trains.” We have reviewed ruling letters NY N009213 and N009215 and have determined that they are incorrect and should be revoked.

In parallel with the revocation of ruling letters NY N009213 and N009215, CBP believes that it can best meet its obligations regarding the sound administration of the HTSUS and other customs and related laws by also revoking ruling letters NY N186430 and N186432, issued to Honda on September 30, 2011. *See* 19 C.F.R. § 177.7(a). In ruling letters NY N186430 and N186432, CBP reclassified Honda’s differential assembly parts under subheading 8708.50.89, HTSUS.¹ However, although CBP stated in ruling letters NY N186430 and N186432 that the ruling letters were being issued “to correct” previous ruling letters N009213 and N009215, CBP did not initiate a notice and comment procedure pursuant to 19 U.S.C. § 1625(c) to propose to revoke the prior ruling letters.

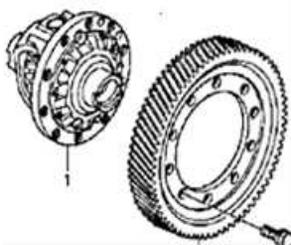
Accordingly, pursuant to 19 U.S.C. § 1625(c), CBP is revoking ruling letters NY N009213, N009215, N186430, and N186432. Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623

¹ We note that in 2007, the scope of subheading 8708.50, HTSUS, was expanded to include a specific reference to “parts” of drive-axels with differential. As result, subheading 8708.50, HTSUS, currently provides for “Parts and accessories of the motor vehicles of headings 8701 to 8705: Drive-axels with differential, whether or not provided with other transmission components, and non-driving axels; **parts thereof**” (emphasis added). Prior to the 2007 amendment, however, earlier versions of heading 8708, HTUS, provided only for “Parts and accessories of the motor vehicles of headings 8701 to 8705: Drive-axels with differential, whether or not provided with other transmission components,” without reference to parts of drive-axels with differential. *See, e.g.*, heading 8708, HTSUS (2006).

of Title VI, notice of the proposed action was published in the *Customs Bulletin*, Vol. 50, No. 2 & 3, on January 20, 2016. No comments were received in response to the notice.

FACTS:

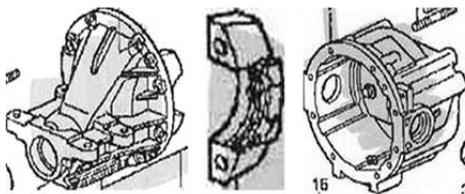
The articles classified in ruling letter NY N009213 consist of two component parts of a front-differential assembly for motor vehicles, which allow the tires of a vehicle to spin at different speeds when making turns. Specifically, CBP considered the Honda “Differential” (Part #41100-RCCL-J05) and “Final Driven Gear” (Part #41233-RCL-010) and provided the following illustration to identify the merchandise at issue:



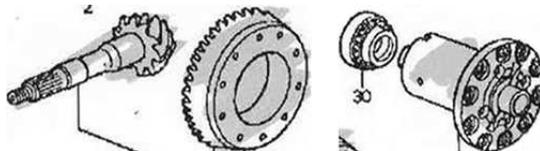
Honda “Differential” (Part #41100-RCCL-J05) and “Final Driven Gear” (Part #41233-RCL-010). See NY N009213, dated April 10, 2007.

* * * * *

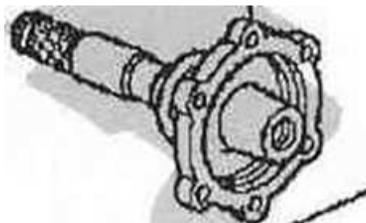
Similarly, the articles classified in ruling letter NY N009215 consist of various component parts of a rear-differential unit for rear-wheel drive motor vehicles. Specifically, CBP considered the Honda “Differential Carrier Assembly” (Part #41120-PCZ-003 and Part #41120-PCZ-023), “Differential Case Assembly” (Part #41170-PCZ-003), “Differential Assembly” (Part #41100-PCZ-003), “Final Gear Set” (Part #41220-PCZ-003), and “Output Shaft Assembly” (Part #40443-PCZ-003) and provided the following illustrations to identify the merchandise at issue:



Honda “Differential Carrier Assembly” (Part #41120-PCZ-003 and Part #41120-PCZ-023), “Differential Case Assembly” (Part #41170-PCZ-003), “Differential Assembly” (Part #41100-PCZ-003), “Final Gear Set” (Part #41220-PCZ-003), and “Output Shaft Assembly” (Part #40443-PCZ-003).



Honda “Final Gear Set” (Part #41220-PCZ-003).



Honda “Output Shaft Assembly” (Part #40443-PCZ-003). *See* NY N009215, dated April 12, 2007.

* * * * *

ISSUE:

Whether the parts of front-differential and rear-differential assemblies for motor vehicles are classified in heading 8708, HTSUS, specifically under subheading 8708.50, HTSUS, as parts of drive-axels with differential, whether or not provided with other transmission components, or under subheading 8708.99, HTSUS, as other parts.

LAW AND ANALYSIS:

Merchandise imported into the United States is classified under the HTSUS. Tariff classification is governed by the principals set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context with requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law for all purposes.

GRI 1 requires that classification be determine first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in their appropriate order.²

² GRI 6 states that, “For legal purposes, the classification of goods in the subheadings 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. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires.”

The HTSUS provisions under consideration provide, in relevant part, as follows:

8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
8708.50	Drive-axels with differentials, whether or not provided with other transmission components, and non-driving axels; parts thereof:
	Parts:
	For vehicles of heading 8703:
	Other:
	Other:
808.50.89	Other
...	
	Other parts and accessories:
8708.99	Other:
	Other:
8708.99.68	Other parts for power trains

* * * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HS and are thus useful in ascertaining the proper classification of merchandise. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 87.08, HS, states, in pertinent part, as follows:

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05, **provided** the parts and accessories fulfill **both** the following conditions:

- (i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles; and
- (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

Parts and accessories of this heading include:

...

(E) Drive-axels, with differential; non-driving axles (front or rear); casings for differentials; sun and planet gear pinions; hubs, stub-axels (axle journals), stub-axle brackets.

* * * * *

As an initial matter, CBP notes that there is no dispute that the instant parts of front-differential and rear-differential assemblies for motor vehicles are properly classified under heading 8708, HTSUS. In accord with the Notes

to Section XVII, HTSUS, the articles are suitable for use solely or principally with the motor vehicles of headings 87.01 to 87.05, HS, and are not excluded by the provisions of Note 2 to Section XVII. Accordingly, because the merchandise is *prima facie* classifiable in heading 8708, HTSUS, this matter concerns the proper classification of the merchandise at the 6-digit, subheading level of heading 8708.

Prior to the adoption of the 2007 amendments to the HS Nomenclature, subheading 8708.50, HTSUS, did not provide for parts of drive-axels with differentials³, and it was the practice of CBP to classify such merchandise under subheading 8708.99, HTSUS, which provided for “other parts and accessories” of the motor vehicles of heading 8701 to 8705. *See, e.g.*, NY R03507, dated March 30, 2006 (classifying cast iron automotive carrier assemblies under subheading 8708.99, HTSUS); and HQ 965369, dated May 9, 2002 (classifying differential carriers under subheading 8708.99, HTSUS).

However, as result of amendments to the subheadings of heading 87.08, HS, adopted by the World Customs Organization (WCO) in the 2007 edition of the HS Nomenclature, the U.S. International Trade Commission (ITC) amended subheading 8708.50, HTSUS, with respect to the classification of parts of drive-axels with differentials and non-driving axels. Accordingly, the current version of subheading 8708.50, HTSUS, provides, in pertinent part, for “drive-axels with differentials, whether or not provided with other transmission components, and non-driving axels; **parts thereof**” (emphasis added).

The Honda “Differential” (Part #41100-RCCL-J05), “Final Driven Gear” (Part #41233-RCL-010), “Differential Carrier Assembly” (Part #41120-PCZ-003 and Part #41120-PCZ-023), “Differential Case Assembly (Part #41170-PCZ-003), “Differential Assembly” (Part #41100-PCZ-003), “Final Gear Set” (Part #41220-PCZ-003), and “Output Shaft Assembly” (Part #40443-PCZ-003) are component parts of differential assemblies for motor vehicles. Inasmuch as they are suitable for use solely or principally with the motor vehicles of headings 87.01 to 87.05, HS, they are *prima facie* described by the terms of subheading 8708.50, HTSUS, as parts of drive-axels with differentials, whether or not provided with other transmission components. *See* EN 87.08(E), HS. Specifically, they are classified in subheading 8708.50.89, HTSUS, by application of GRI 1.

HOLDING:

By application of GRI 1, the Honda “Differential” (Part #41100-RCCL-J05), “Final Driven Gear” (Part #41233-RCL-010), “Differential Carrier Assembly” (Part #41120-PCZ-003 and Part #41120-PCZ-023), “Differential Case Assembly (Part #41170-PCZ-003), “Differential Assembly” (Part #41100-PCZ-003), “Final Gear Set” (Part #41220-PCZ-003), and “Output Shaft Assembly” (Part #40443-PCZ-003) are classified in heading 8708, HTSUS, specifically in subheading 8708.50.89, HTSUS, which provides for “Parts and accessories of the motor vehicles of headings 8701 to 8705: Drive-axels with differentials, whether or not provided with other transmission components, and non-driving axels; parts thereof: Parts: For vehicles of heading 8703: Other:

³ The 2006 edition of subheading 8708.50, HTSUS, provided, in relevant part, for “Drive axels with differential, whether or not provided with other transmission components,” but did not include a provision for “parts thereof.”

Other: Other.” The 2015 column one, general rate of duty is 2.5% *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 <http://hts.usitc.gov>.

EFFECT ON OTHER RULINGS:

Ruling letters NY N009213, dated April 10, 2007; NY N009215, dated April 12, 2007; NY N186430, dated September 30, 2011; and NY N186432, dated September 30, 2011, are hereby **REVOKED** in accordance with the above analysis.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial & Trade Facilitation Division

**AGENCY INFORMATION COLLECTION ACTIVITIES:
REQUEST FOR INFORMATION**

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

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Request for Information. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before May 31, 2016 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229-1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S.

Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Request for Information.

OMB Number: 1651–0023.

Form Number: CBP Form 28.

Abstract: Under 19 U.S.C. 1500 and 1401a, Customs and Border Protection (CBP) is responsible for appraising imported merchandise by ascertaining its value; classifying the merchandise under the tariff schedule; and assessing a rate and amount of duty to be paid. On occasions when the invoice or other documentation does not provide sufficient information for appraisal or classification, CBP may request additional information through the use of CBP Form 28, *Request for Information*. This form is sent by CBP personnel to importers, or their agents, requesting additional information. CBP Form 28 is provided for by 19 CFR 151.11. A copy of this form and instructions are available at http://forms.cbp.gov/pdf/CBP_Form_28.pdf.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 60,000.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 60,000.

Dated: March 28, 2016.

TRACEY DENNING,
Agency Clearance Officer,
U.S. Customs and Border Protection.

[Published in the Federal Register, April 1, 2016 (81 FR 18866)]



AGENCY INFORMATION COLLECTION ACTIVITIES: ADMINISTRATIVE RULINGS

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

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Administrative Rulings. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before May 4, 2016 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229-1177, at 202-325-0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (81 FR 1959) on January 14, 2016, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Administrative Rulings.

OMB Number: 1651–0085.

Abstract: The collection of information in 19 CFR part 177 is necessary in order to enable Customs and Border Protection (CBP) to respond to requests by importers and other interested persons for the issuance of administrative rulings. These rulings pertain to the interpretation of applicable laws related to prospective and current transactions involving classification, marking, and country of origin. The collection of information in Part 177 of the CBP Regulations is also necessary to enable CBP to make proper decisions regarding the issuance of binding rulings that modify or revoke prior CBP binding rulings. This collection of information is authorized by 19 U.S.C. 66, 1202, (General Note 3(i), Harmonized Tariff Schedule of the United States). The application to obtain an administrative ruling is accessible at: <https://apps.cbp.gov/erulings>.

Current Actions: CBP proposes to extend the expiration date of this information collection with a change to the burden hours based on current estimates, but no change to the information collected.

Type of Review: Extension (with change).

Affected Public: Businesses.

Rulings

Estimated Number of Respondents: 3,000.

Estimated Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 30,000.

Appeals

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 8,000.

Dated: March 30, 2016.

TRACEY DENNING,
Agency Clearance Officer,
U.S. Customs and Border Protection.

[Published in the Federal Register, April 4, 2016 (81 FR 19216)]