

U.S. Customs and Border Protection



19 CFR PART 177

REVOCATION OF A RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF THE 3DOODLER CREATE PEN SET

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

ACTION: Notice of revocation of a ruling letter and of revocation of treatment relating to the tariff classification of the 3Doodler Create Pen Set.

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 of a ruling letter concerning tariff classification of the 3Doodler Create Pen Set 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. 53, No. 24, on July 17, 2019. One comment was received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after January 6, 2020.

FOR FURTHER INFORMATION CONTACT: Anthony L. Shurn, Electronics, Machinery, Automotive, and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0218.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obli-

gation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 53, No. 24, on July 17, 2019, proposing to revoke a ruling letter pertaining to the tariff classification of the 3Doodler Create Pen Set. 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 19 U.S.C. § 1625(c)(2), 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 N248177, dated December 18, 2013, CBP classified the 3Doodler Create Pen Set in heading 8516, HTSUS, specifically in subheading 8516.79.00, HTSUS, which provides for "Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof." CBP has reviewed NY N248177 and has determined the ruling letter to be in error. It is now CBP's position that the 3Doodler Create Pen Set is properly classified, in heading 8477, HTSUS, specifically in subheading 8477.80.00, HTSUS, which provides for "Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this chapter; parts thereof: Other machinery."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N248177 and revoking or modifying any other ruling not specifically identified

to reflect the analysis contained in HQ H293445, 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: October 7, 2019

GREG CONNOR
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H293445

October 7, 2019

CLA-2 OT:RR:CTF:TCM H293445 ALS

CATEGORY: Classification

TARIFF NO.: 8477.80.00

Ms. COLLEEN O'SHEA-MORAN

DARICE INC.

13000 DARICE PARKWAY, PARK 82

STRONGSVILLE, OHIO 44149

RE: Revocation of NY N248177 (December 18, 2013); Tariff classification of 3Doodler Create Pen Set

DEAR Ms. O'SHEA-MORAN:

This letter is to inform you that we have reconsidered and revoked the above-referenced ruling. The ruling was in response to a request for such that you filed on behalf of Lamrite West, Inc. The ruling and this reconsideration addresses the legal tariff classification of 3Doodler Create Pen Set (also referred to herein as the "Create Pen").

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY N248177 was published on July 17, 2019, in Volume 53, Number 24 of the Customs Bulletin. One comment was received in response to this notice, which we will address below.

FACTS:

The facts as stated in NY N248177 are as follows:

The product to be imported is the 3Doodler, a 3D drawing pen. This pen comes with a power adapter, 2 packs of ABS (acrylonitrile butadiene styrene) plastic monofilaments and 2 packs of PLA (polylactic acid) plastic monofilaments. For purposes of this reply, it is assumed that the styrene predominates by weight over each single monomer in the ABS copolymer. Imported in various colors, these monofilaments measure approximately 3 mm in diameter and 25 cm in length. Once the 3Doodler is heated and the monofilament is loaded into the pen, the user presses and holds down the button for the desired speed and plastic is extruded through the pen's tip.

Additional facts are that the Create Pen includes a mini screwdriver, a mini spanner, an unblocking tool, an instruction manual, and a quick start guide. The Create Pen is a hand-held 3-dimensional (3D) printer tool that is electrically powered. The Create Pen itself consists of two motors, a guide tube, a gear system, and a heating unit and nozzle at the end of the tool. The Create Pen has an aluminum outer shell with internal materials consisting of plastic and silicone.

The Create Pen utilizes the power adapter by connecting to one end while the other end is plugged into a wall electric outlet. A plastic strand is fed into the Pen towards the heater unit where it is melted and extruded from the Pen's nozzle. The plastic hardens upon extrusion. The effect allows the user to draw objects and shapes in 3D either on a surface or in the air. The Pen has different heat and speed settings to control the flow of the melted plastic.

In NY N248177, CBP ruled that the 3Doodler Create Pen Set is classified under subheading 8516.79.00.

ISSUE:

Is the 3Doodler Create Pen Set, as described above, properly classified under heading 8477, HTSUS, which provides for “Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this chapter; parts thereof”, or under heading 8516, HTSUS, which provides for “Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof”?

LAW AND ANALYSIS:

Classification under the HTSUS is determined in accordance with the General Rules of Interpretation (“GRI”) and, in the absence of special language or context which otherwise requires, by the Additional U.S. Rules of Interpretation (“ARI”). GRI 1 provides that the classification of goods shall be “determined according to the terms of the headings and any relative section or chapter notes.” In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, GRIs 2 through 6 may be applied in order.

The following headings and subheadings of the HTSUS are under consideration in this case:

8477	Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this chapter; parts thereof:
8477.80.00	Other machinery...
8477.80.00	Other machinery...
	* * *
8516	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof:
8516.79.00	Other...
	* * * * *

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

The Create Pen without question works plastic to manufacture products, three-dimensional objects in particular. The question is whether it is specified or included somewhere in chapter 84, HTSUS, other than heading 8477.

The Create Pen does not meet the description of any of the articles of heading 8516, HTSUS. Though it is not stated in NY N248177, we surmise from that ruling's conclusion that CBP concluded that the Create Pen fit the description of an electrothermic appliance of a kind used for domestic purposes. While it is an electrothermic device, the Create Pen cannot be said to be a domestic device. We recognize that the Create Pen may be used in a domestic environment, but it is may also be used in a commercial environment, and indeed is marketed as being suitable for domestic, commercial, and educational use. Thus, the Create Pen is not an electrothermic appliance for domestic use. Based on the foregoing, it is not classifiable as an article of heading 8516.

The Create Pen is more akin to the CreoPop 3D Printing Pen Set in CBP Ruling NY N266946 (August 18, 2015). In that ruling, CBP concluded that the CreoPop 3D Printing Pen Set is classified under heading 8477, HTSUS. Upon review of the CreoPop 3D Printing Pen Set in comparison to the subject Create Pen, we find the two articles similar enough in design and function to find the conclusion of NY N266946 applicable to this case.

As noted above, we received one comment in response to the notice of the proposed revocation. The commenter contends that the Create Pen is properly classified under heading 8467, HTSUS, which provides for "tools for working in the hand, pneumatic, hydraulic or with self-contained electric or nonelectric motor... The commenter argues that the Create Pen is a handheld device that contains an electric motor, and therefore is classifiable under 8467. The ENs to heading 8467 list various methods of working materials, including drilling, tapping, reaming, boring, wrenching, screwing, gauging, surfacing, filing, grinding, sanding, and polishing. A common characteristic among these methods is that they alter the composition of the material being worked, whether by making a hole, insert a screw, or removing a top layer, for instance. The Create Pen is distinguished from the tools that perform the tasks noted in the EN for 8467 in that it extrudes the material being worked from its housing, but it does not alter its composition except to establish its initial form to create three-dimensional objects.

The commenter cited numerous cases, arguing that they are examples of articles similar to the Create Pen that CBP classified under heading 8467. Just as the working methods noted in EN 8467 are distinguished from the function of the subject Create Pen, so are the cases that the commenter cited. The articles in the cited cases all work materials in a similar fashion to the methods noted in EN 8467 (NY N289201-gluing; NY N275980-picking; NY N258238-styling; NY N250886-polishing; NY N189023-engraving; NY N097295-caulking; NY N056449-tattooing; NY N054523-drilling; HQ H017695-drilling and snaking; HQ H017694-drilling; NY N009242-tying or wrapping; NY M80652-polishing; NY J82209-cleaning; and NY H86274-carving).

Given such, we conclude that the 3Doodler Create Pen Set is properly classified under heading 8477, HTSUS. Specifically, it is classified under subheading 8477.80.00, HTSUS, which provides for "Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this chapter; parts thereof: Other machinery..."

HOLDING:

By application of GRI 1, the 3Doodler Create Pen Set is properly classified under heading 8477, HTSUS. Specifically, it is classified under subheading 8477.80.00, HTSUS, which provides for “Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this chapter; parts thereof: Other machinery...” The general column one rate of duty, for merchandise classified in this subheading is 3.1%.

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

EFFECT ON OTHER RULINGS:

CBP Ruling NY N248177 (December 18, 2013) is 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,

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED MODIFICATION OF TWELVE RULING
LETTERS AND PROPOSED REVOCATION OF TWO
RULING LETTERS AND PROPOSED REVOCATION OF
TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF GARMENTS WITH OVERLAYS**

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

ACTION: Notice of proposed modification of twelve ruling letters and proposed revocation of two ruling letters and proposed revocation of treatment relating to the tariff classification of garments with overlays.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to modify twelve ruling letters and modify two ruling letters concerning tariff classification of garments with overlays under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before December 6, 2019.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229-1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Parisa J. Ghazi, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325-0272.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to modify twelve ruling letters and revoke two ruling letters pertaining to the tariff classification of garments with overlays. Although in this notice, CBP is specifically referring to Headquarters Ruling Letter ("HQ") 950007, dated October 4, 1991 (Attachment A); HQ 960960, dated April 10, 2001 (Attachment B); New York Ruling Letter ("NY") NY N257834, dated October 15, 2014 (Attachment C); NY N257469, dated October 7, 2014 (Attachment D); NY N243946, dated July 23, 2013 (Attachment E); NY N242436, dated June 7, 2013 (Attachment F); NY N235714, dated December 4, 2012 (Attachment G); NY N208296, dated March 23, 2012 (style 19446)(Attachment H) NY N173438, dated July 11 (styles 63917 and 65896) (Attachment I) NY N138899, dated January 13, 2011 (Attachment J); NY N138900, dated January 13, 2011 (Attachment k); NY N043 l 15, dated November 21, 2008 (styles Dl 11496 and Dl 11459) (Attachment L); NY N255267 dated August 7, 2014 (Attachment M); and NY N254620 (Attachment N) this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the fourteen identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this 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 the final decision on this notice.

In this notice, the proposed modification concerns HQ 950007, HQ 960960, NY N257834, NY N257469, NY N243946, NY N242436, NY N235714, NY N208296, NY N173438, NY N138899, NY N138900, and NY N043115. In each of these rulings, except for HQ 960960, we are modifying the rulings only insofar as to remove the essential character determination and to clarify that the merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b). The tariff classification in each of these rulings is otherwise correct. We are modifying HQ 960960 only insofar as to remove the parenthetical that inaccurately describes the term “overlay” as that “(which is merely a decorative addition to the garment).” The proposed revocation concerns NY N255267 and NY N254620. In NY N255267, the subject garment is properly classified by applying GRI 3(b) with the essential character being imparted by the open work knit fabric overlay rather than the body fabric. In NY N254620, the subject garment is properly classified on the basis of its knit body fabric by applying GRI 1, rather than classifying the garment on the basis of its overlay fabric by applying GRI 3(c).

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to modify HQ 950007, HQ 960960, NY N257834, NY N257469, NY N243946, NY N242436, NY N235714, NY N208296, NY N173438, NY N138899, NY N138900, and NY N043115, to revoke NY N255267 and NY N254620, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H270389, set forth as Attachment O to this notice.

Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: October 8, 2019

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

ATTACHMENT A

HQ 950007

October 4, 1991

CLA-2 CO:R:C:T 950007 PR

CATEGORY: Classification

TARIFF NO.: 6110.10.2060; 6110.10.2080

DAVID M. MURPHY, ESQUIRE
GRUNFELD, DESIDERIO, LEBOWITZ & SILVERMAN
12 EAST 49TH STREET
NEW YORK, NEW YORK 10017

RE: Classification of Two Women's Knit Pullover Garments With Woven Fabric Overlaid Fronts—Essential Character

DEAR MR. MURPHY:

This is in reply to your letters of June 14 and September 23, 1991, on behalf of Kobra Trading International Ltd., concerning the classification of two submitted garments. Our ruling on the matter follows.

FACTS:

Style No. 9746 is a woman's V-neck sleeveless knit wool pullover. It has large armhole openings finished with rib knit capping, and a 3 inch wide rib knit waistband. The garment extends below the waist and is intended to be worn over other outer wearing apparel. The knit fabric comprising the garment is constructed with more than nine stitches per two centimeters. The entire front, except for the arm, neck, and waist bands, is overlaid with a decoratively printed woven silk fabric.

Style No. 1157 is essentially the same garment as Style No. 9746, except that it has long sleeves with rib knit cuffs and the waistband is 2-3/4 inches wide.

The knit portions of the garments are stated to comprise over 60 percent of the surface area of each garment and over 85 percent of the weight of each garment.

ISSUE:

The issue presented by the two samples is whether they are classifiable as knit garments, in Chapter 61, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), or as woven garments, in Chapter 62, HTSUSA.

LAW AND ANALYSIS:

Imported goods are classifiable according to the General Rules of Interpretation (GRI's) of the Harmonized Tariff Schedule of the United States (HTSUSA). GRI 1 provides that for legal purposes, classification shall be determined according to the terms of the headings in the tariff and according to any pertinent section or chapter notes.

GRI 2(b) provides that a reference to a material in a heading shall be taken to include mixtures or combinations of that material with other materials and that any reference to goods of a given material shall be taken to include goods partly of that material; if goods consist of more than one material, then classification will be according to GRI 3.

GRI 3(a) requires that where two or more headings each refer to part only of the materials in the goods, then classification will be by GRI 3(b). GRI 3(b) states that the material or component which imparts the essential character to the goods will determine their classification.

Normally where garments consist of both knit and woven fabrics, those garments are, pursuant to GRI's 2(b) and 3(b), described by provisions in both Chapter 61, which covers knit garments, and Chapter 62, which provides for garments of other fabrics, and classification must be in accordance with GRI 3(b) — according to the component which imparts the essential character to each garment.

Accordingly, it is contended that a Customs Headquarters memorandum, file 084118, dated April 13, 1989, to our Area Director of Customs, New York Seaport, requires Customs to find that the essential character of the garments in question is imparted by the overlaid woven silk fabrics. In that memorandum, it was stated:

Where garments are made from both woven and knit fabrics, or where they contain both textile and nontextile components, the classification of those garments depends on a subjective determination of which component—the woven or the knit, or the textile or nontextile—imparts the essential character to the particular garments. We have discovered that knowledgeable import specialists, when viewing the same garment, differ in their classification of that garment, even though they were instructed that, if in doubt, they should use the tie-breaker—General Rule of Interpretation (GRI) 3(c).

The memorandum went on to set out certain factors to be considered in determining the essential character of garments consisting of different fabrics or of textile and nontextile components. One factor listed is where a component forms the entire front of the garment. A second factor is where a component provides a visual and significant decorative effect. It is argued that these two factors require the subject garments to be according to their woven fronts.

First, it should be pointed out that the wide solid black waistbands contrast markedly with the brightly colored silk overlays. Accordingly, the waistbands constitute a significant frontal presence and cannot be ignored. As a result, the entire front of each sample is not considered to be formed by the silk overlays.

Secondly, and most important, the cited memorandum is concerned with determining the essential character of garments made of two or more components, each of which must be considered in making that determination. That is not the case in this instance. The Harmonized Commodity Description and Coding System, Explanatory Notes, which are the official interpretation of the HTSUSA at the international level (for the 4 digit headings and the 6 digit subheadings), state, on page 830:

The classification of goods in this Chapter is not affected by the presence of parts or accessories of, for example, woven fabrics, furskin [sic], feather, leather, plastics or metal.

The woven silk overlays are not integral parts of the submitted samples. They are decorative additions which, while enhancing the appearance of the garments, do not change the identity or commercial designation of the underlying knit garments. Without the overlays, the garments are knit pullover sweater-like garments. With the overlays, the garments are knit pullover sweater-like garments with decorative fronts.

Accordingly, it is Customs determination that, in accord with the Explanatory Notes, the garments should be classified pursuant to GRI 1 without any consideration being given to the overlaid woven silk fabric fronts.

Since the samples are knit garments for tariff purposes, it must be determined whether they are classifiable as sweaters. Sweaters are provided for by name at the statistical (nonstatutory) level of the tariff schedules. Statistical Note 3 to Chapter 61 states that for the purposes of Chapter 61, sweaters are garments which are “constructed essentially with 9 or fewer stitches per 2 centimeters.” Since the submitted samples consist of fabric that has more than nine stitches per two centimeters, they are not classifiable under the statistical provisions for sweaters.

HOLDING:

The essential character of the sample garments is imparted by the knit fabrics which form those garments. Therefore, pursuant to GRI 3(b), the garments are classifiable in Chapter 61, as follows:

Style No. 9746 is classifiable under the provision for other women’s wool vests, in subheading *6110.10.2060*, HTSUSA, with duty at the rate of 17 percent ad valorem. The designated textile and apparel category applicable to this merchandise is 459.

Style No. 1157 is classifiable under the provision for other women’s wool sweaters, pullovers, and similar garments, in subheading *6110.10.2080*, HTSUSA, with duty at the rate of 17 percent ad valorem. The designated textile and apparel category applicable to this merchandise is 438.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories applicable to textile merchandise, your client should contact its local Customs office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the Status Report On Current Import Quotas (Restraint Levels), an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

Sincerely,

JOHN DURANT,

Director

Commercial Rulings Division

ATTACHMENT B

HQ 960960

April 10,2001

CLA-2 RR:CR:TE 960960 SG

CATEGORY: Classification

TARIFF NO.: 6109.90.1090

LIZ RIZZO

CLASSIFICATION ANALYST

DONNA KAREN NEW YORK

600 PARKWAY

CARLSTADT, NEW JERSEY 07072

RE: Classification of women's double layer camisole type garment; essential character imparted by the lace-like layer; 6109.90.1090; GRI 3(b); Headquarters Memorandum 084118 (4/13/89); Lining, overlay

DEAR Ms. RIZZO:

This is in response to a request dated August 20, 1997, from Donna Karen New York, requesting a binding classification ruling for a garment described as a "double layer camisole with lace overlay", your style number P472012EA. A sample of the article at issue was submitted to this office and will be returned under separate cover.

FACTS:

Style P472012EA is a woman's 100 percent nylon upper body garment commercially known as a camisole. The garment consists of two layers. The fabric of the outer shell is made on a jacquantronics machine and is knitted. It resembles lace. The inner layer is of a woven construction. The two layers have unfinished top edges that are joined with a lace-like edging. The garment covers the torso from the top of the bust to slightly below the waist. It features a v-neckline, 3/8 inch wide spaghetti straps, and is cut straight across in the back. The straps are of narrow man-made fiber grosgrain fabric. The knit lace-like layer of the garment is longer than and hangs below the woven layer. The woven layer has a hemmed bottom with 3-inch side vents, while the knit lace-like layer has a finished scalloped edged bottom. The back of the garment has a 5- inch long zipper attached to both layers. The garment is shaped at the bust by darts and piecing together of the two layers of the garment.

ISSUE:

Is the article classifiable under heading 6109, HTSUSA, as a knitted garment, or under heading 6208, HTSUSA, as a woven garment.

LAW AND ANALYSIS:

Classification of merchandise under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is governed by the General Rules of Interpretation (GRI's). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes. Where the goods cannot be classified solely on the basis of GRI 1, and if the remaining headings and legal notes do not otherwise require, the remaining GRI's may be applied in order of their appearance.

GRI 2(b) provides that a reference to a material in a heading shall be taken to include mixtures or combinations of that material with other materials and that any reference to goods of a given material shall be taken to include goods partly of that material; if goods consist of more than one material, then classification will be according to GRI 3.

GRI 3(a) requires that where two or more headings each refer to part only of the materials in the goods, then classification will be by GRI 3(b). GRI 3(b) states that the material or component which imparts the essential character to the goods will determine their classification.

Normally where garments consist of both knit and woven fabrics, those garments are, pursuant to GRI's 2(b) and 3(b), described by provisions in both Chapter 61, which covers knit garments, and Chapter 62, which provides for garments of other fabrics, and classification must be in accordance with GRI 3(b)—according to the component which imparts the essential character to each garment.

Customs Headquarters Memorandum *084118*, dated April 13, 1989, stated:

Where garments are made from both woven and knit fabrics, or where they contain both textile and non-textile components, the classification of those garments depends on a subjective determination of which component—the woven or the knit, or the textile or nontextile—imparts the essential character to the particular garments. We have discovered that knowledgeable import specialists, when viewing the same garment, differ in their classification of that garment, even though they were instructed that, if in doubt, they should use the tie-breaker—General Rule of Interpretation (GRI) 3(c).

As the camisole at issue has both knitted and woven components, our analysis is aided by applying a set of classification guidelines set forth in the above Memorandum. These guidelines state that, absent any unusual circumstances, the following criteria should be applied when classifying garments consisting of different fabrics:

“a. For upper or lower body garments, if one component exceeds 60 percent of the visible surface area, that component will determine the classification of the garment unless the other component:

- (1) forms the entire front of the garment; or
- (2) provides a visual and significant decorative effect (e.g. a substantial amount of lace); or
- (3) is over 50 percent by weight of the garment; or
- (4) is valued at more than 10 times the primary component.

If no component comprises 60 percent of the visible surface area, or if any of the above four listed conditions are present, classification will be according to GRI 3(b) or 3(c), as appropriate.”

It is important to note, however, that the aforementioned Memorandum relates to determining the essential character of garments made up of two or more components, each of which must be considered in making that determination.

We must therefore first address whether the woven layer is merely a lining or interlining for the knit lace-like layer. It is Custom's position that a garment is normally formed or created by its outer shell. While linings, interlinings and nonwoven insulating fabrics do contribute substantially to the characteristics of a garment, they do not form or create a garment. It is our view that both the knit lace-like layer and the woven layer contribute and

form the garment (camisole). Accordingly, both layers create the camisole's identity. Therefore, in the instant case, the woven inner layer is more than a lining or interlining, and is an integral component of the camisole.

We must also address whether the knit lace-like layer is an overlay (which is a merely a decorative addition to the garment). In this instance, the knit lace-like top layer is not completely attached to the woven layer. In addition the knit lace-like layer not only completely covers the woven layer, it is longer than the woven layer of the garment. With or without either layer the subject garment remains a camisole. Without the knit lace-like layer, the garment is a camisole. With the knit lace-like layer the garment is a lace-like camisole. However, this is equally true of the woven layer, the garment remains a camisole with or without the woven layer, merely the type of camisole changes. It is our view that as such, the knit lace-like layer while enhancing the appearance of the garment, is not merely a decorative addition, an overlay, but an integral part of the garment. The knit lace-like layer is therefore an integral component of the submitted sample.

As we have determined that the woven layer is not more than a lining, and the knit layer not merely an overlay, we can now apply the guidelines in the Memorandum mentioned above.

Upon examination of the article before us it appears that the knit lace-like layer is so finely knit that it does not cover over 60 percent of the visible surface of the garment. In addition, the knit lace-like layer does not completely obscure the woven layer so that the woven layer is seen thorough over 60 percent of the visible surface of the garment. Accordingly, the woven component exceeds 60 percent of the visible surface area. However, it appears that one of the four enumerated criteria also applies to the knit lace-like layer of the garment at issue.

The knit lace-like component of this camisole is so pervasive, and creates such a revealing and intimate look, that in our view, it is accurately deemed to "provide a visual and significant decorative effect." The knit lace-like layer of the camisole defines this garment and creates a camisole of very different character from a totally woven camisole.

Following HQ *084118*, as classification may be based on either the woven or lace components, and neither heading 6109 nor 6208, HTSUSA, provides for the camisole in its entirety, GRI 3 provides the relevant analysis. GRI 3 reads:

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

(b) ... composite goods consisting of different materials or made up of different components ... which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character.

Explanatory Note VIII to GRI 3(b) states:

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

It is this office's opinion that the knit lace-like component of the article at issue imparts the essential character to the camisole based on the nature of the material. By providing a visual and significant decorative effect, the lace-like layer of the camisole defines this garment. Accordingly, classification of this garment is based on its knitted lace-like component and classification is proper under heading 6109, HTSUSA.

HOLDING:

The subject merchandise is classifiable under subheading *6109.90.1090*, HTSUSA, which provides for "T-shirts, singlets, tank tops and similar garments, knitted or crocheted: Of other textile materials: Of man-made fibers, Women's or girls': Other", dutiable at the general column one rate of 32.8 percent ad valorem. The applicable textile category is 639.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that your client check, close to the time of shipment, the Status Report on Current Import Quotas (Restraint Levels), an internal issuance of the U.S. Customs Service, which is updated weekly and is available at your local Customs office. Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification), and the restraint (quota/visa) categories, your client should contact its local Customs office prior to importing the merchandise to determine the current applicability of any import restraints or requirements.

Sincerely,

JOHN DURANT,

Director

Commercial Rulings Division

ATTACHMENT C

N257834

October 15, 2014
CLA-2-61:OT:RR:NC:N3:358
CATEGORY: Classification
TARIFF NO.: 6110.20.2079

Ms. ELIZABETH KESSENS
DOLLAR GENERAL CORPORATION
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072

RE: The tariff classification of a girl's pullover from Pakistan

DEAR Ms. KESSENS:

In your letter dated September 30, 2014 you requested a tariff classification ruling. A sample was received with your letter. The sample will be returned to you as requested.

Style 14885201 is a girl's sleeveless pullover constructed from 100 percent cotton jersey knit fabric. The outer surface of the fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment extends below the waist. The pullover features a rounded front neckline, a high rear neckline, a front yoke and a straight hemmed bottom. The front panels are overlaid with an open-work knit fabric of 100 percent polyester. The overlay on the front yoke is sewn to the garment at the shoulder seams, armholes and neckline. The remaining front panel has three strips of the open-work fabric overlaid in tiers. Each tier is sewn into the side seams and horizontally across the top of the strip to the underlying fabric. The knit open-work overlays are decorative additions to the garment. The essential character of the pullover is imparted by the jersey knit fabric which forms the pullover body. General Rules of Interpretation (GRI) 3(b) and precedential Headquarters Ruling 950007, dated October 4, 1991, noted.

The applicable subheading for the pullover will be 6110.20.2070, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of cotton: Other: Other: Other: Women's or girls': Other." The rate of duty will be 16.5 percent.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Kim Wachtel at kimberly.a.wachtel@cbp.dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER
Director

National Commodity Specialist Division

ATTACHMENT D

N257469

October 7, 2014
CLA-2-61:OT:RR:NC:N3:358
CATEGORY: Classification
TARIFF NO.: 6110.20.2079

MS. JENNIFER CALDWELL
GLOBAL GOLD INC.
1410 BROADWAY, 8TH FLOOR
NEW YORK, NY 10018

RE: The tariff classification of a girl's pullover from China

DEAR MS. CALDWELL:

In your letter dated September 11, 2014 you requested a tariff classification ruling. The sample received with your ruling request will be returned to you, as requested.

The sample submitted is a girl's pullover, style AQRT101, constructed from 60 percent cotton and 40 percent polyester jersey knit fabric. The outer surface of the fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment extends below the waist. The pullover features a hemmed, round neckline; a scooped back with two criss-cross straps; short, capped, hemmed sleeves and a curved hemmed bottom. The sleeves are constructed from a 93 percent polyester and 7 percent spandex open work knit fabric. The front panel which narrows as it reaches the bottom of the garment is overlaid with the open work knit fabric. The knitted open work fabric overlay is a decorative addition to the garment. The essential character is imparted by the knit jersey fabric which forms the pullover body. General Rule of Interpretation (GRI) 3(b) noted.

The applicable subheading for the girl's pullover, style AQRT101, will be 6110.20.2079, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Sweaters, pullovers, waistcoats (vests) and similar articles, knitted or crocheted: Of cotton: Other: Other: Women's or girls': Other." The rate of duty will be 16.5 percent.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Kim Wachtel at kimberly.a.wachtel@cbp.dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER
Director

National Commodity Specialist Division

ATTACHMENT E

N243946

July 23, 2013

CLA-2-61:OT:RR:NC:N3:359

CATEGORY: Classification

TARIFF NO.: 6110.20.2079

MR. JERRY ARMANI
MAMIYE BROTHERS
1385 BROADWAY, SUITE 1800
NEW YORK, NY 10018

RE: The tariff classification of a woman's pullover from China.

DEAR MR. ARMANI:

In your letter dated July 9, 2013 you requested a classification ruling. As requested, your sample is being returned to you.

The submitted sample, order no. B9B03484T, is a woman's pullover constructed of 60% cotton and 40% polyester French terry knit fabric. The outer surface of the fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment extends to below the waist. The pullover features a crewneck, long raglan sleeves with self-fabric endings, and a self-fabric banded garment bottom. In your letter you state the garment will be offered in junior sizes S-XL. The front panel is overlaid with a raschel lace-like 87% nylon and 13% spandex knit fabric. The knitted raschel lace-like overlay is a decorative addition to the garment. The essential character of the sample garment is imparted by the knit fabric which forms the pullover body, General Rules of Interpretation (GRI) 3(b) noted. Accordingly the garment is properly classified as an other pullover under 6110.20.2079, HTSUS.

The applicable subheading for the pullover will be 6110.20.2079, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of cotton: Other: Other: Women's or girls': Other. The duty rate will be 16.5% 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 World Wide Web at <http://www.usitc.gov/tata/hts/>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist John Lombardi at 646-733-3049.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

ATTACHMENT F

N242436

June 7, 2013

CLA-2-61:OT:RR:NC:N3:359

CATEGORY: Classification

TARIFF NO.: 6110.20.2079

Ms. MARIA E. JULIA
ANN INC.
7 TIMES SQUARE
NEW YORK, NY 10036

RE: The tariff classification of a woman's sleeveless pullover from China.

DEAR Ms. JULIA:

In your letter dated May 22, 2013 you requested a classification ruling. As requested, your sample is being returned to you.

Style 314420 is a woman's "Ann Taylor Loft" label sleeveless pullover that is constructed from 60% cotton and 40% modal jersey knit fabric. The outer surface of the jersey fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment features a scoop front neckline, a high rear neckline, and a straight hemmed garment bottom. The front panel also features 100% polyester woven fabric overlays. The garment extends to below the waist. The woven overlays are decorative additions to the garment. The essential character of the sample garment is imparted by the knit jersey fabric which forms the pullover body, see precedent Headquarters Ruling 950007 dated October 4, 1991.

The applicable subheading for style 314420 will be 6110.20.2079, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of cotton: Other: Other: Other: Women's or girls': Other. The duty rate will be 16.5% 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 World Wide Web at <http://www.usitc.gov/tata/hts/>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist John Lombardi at 646-733-3049.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

ATTACHMENT G

N235714

December 4, 2012
CLA-2-61:OT:RR:NC:N3:359
CATEGORY: Classification
TARIFF NO.: 6110.30.3059

MR. TC LI
HMS PRODUCTIONS INC.
250 WEST 39TH STREET
NEW YORK, NY 10018

RE: The tariff classification of a woman's pullover from China.

DEAR MR. LI:

In your letter dated November 19, 2012 you requested a classification ruling. As requested, your sample is being returned to you.

Style NB80751 is a woman's "cable & gauge" label sleeveless pullover constructed of 100% viscose jersey knitted fabric. The outer surface of the fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment extends to below the waist. The pullover features a rounded front neckline, a high rear neckline, and a straight garment bottom. The front panel is overlaid with a knitted Raschel lace-like fabric constructed of 55% cotton and 45% nylon knit fabric. The knitted raschel lace-like overlays are decorative additions to the garment. The essential character of the sample garment is imparted by the knit jersey fabric which forms the pullover body, General Rules of Interpretation (GRI) 3(b) noted. Accordingly the garment is properly classified as an other pullover under 6110.30.3059, HTSUS.

The applicable subheading for style NB80751 will be 6110.30.3059, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted: Of man-made fibers: Other: Other: Other: Women's or girls': Other. The duty rate will be 32% ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist 359 at 646-733-3049.

Sincerely,

THOMAS J. RUSSO
Director

National Commodity Specialist Division

ATTACHMENT H

N208296

March 23, 2012

CLA-2-61 OT:RR:NC:N3:353

CATEGORY: Classification

TARIFF NO.: 6104.43.2020; 6204.43.4040;
6212.90.0030; 9503.00.0090

Ms. LUZ GUZMAN
DISGUISE, INC.
12120 KEAR PLACE
POWAY, CA 92064

RE: The tariff classification of textile articles from China.

DEAR Ms. GUZMAN:

In your letter dated January 24, 2012, but received on March 8, 2012, you requested a tariff classification ruling.

You submitted a sample, identified as style number 8454, a Child-Sized Mad Hatter Costume, which consists of a dress and a hat. GRI 3(b) is applicable when goods are, prima facie, classifiable under two or more headings, and have been put up in sets for retail sale. GRI 3(b) states that the goods “shall be classified as if they consisted of the material or component which gives them their essential character.” The essential character is imparted by the dress, which is constructed of 100% polyester knitted fabric. The dress features a multi-layered skirt with a visible ruffled hemline and a multi-paneled bodice. It also has sturdy seams, a sewn-on belt and decorative narrow fabric which edges the neckline and sleeves of the garment. You state that the same dress will also be imported as style number 3063.

You submitted a sample, identified as style number 19446, a Child-Sized Razzle Dazzle Bee Costume, which consists of a dress, detachable wings and a headband. GRI 3(b) is applicable when goods are, prima facie, classifiable under two or more headings, and have been put up in sets for retail sale. GRI 3(b) states that the goods “shall be classified as if they consisted of the material or component which gives them their essential character.” The essential character is imparted by the multi-paneled dress, which is comprised of both knit and woven fabrics. The dress features a bodice constructed of horizontal strips of yellow woven polyester fabric alternating with strips of black woven polyester fabric with a knit sequined overlay. The skirt portion of the dress is constructed of 100% polyester woven fabric with a 100% nylon woven overlay. The dress is constructed primarily from woven fabric, which provides the greatest visual impact and imparts the essential character to the dress. The dress features a gathered, multi-layered waist, short puffed sleeves, a multi-layered bodice, sturdy seams, a trimmed hemline and a sewn-on peplum.

Style number 13107, identified as a She Pirate Saber 10” with Garter, consists of a garter and plastic toy saber. The garter is constructed of an elasticized band covered with 100% polyester knit fabric. The bottom of the garter is trimmed with raschel lace-like fabric. The garter also features a sewn-on two inch piece of elastic covered by a sewn-on bow. The elastic holds a plastic toy saber which measures approximately ten inches in length.

The samples will be returned to you as requested.

The applicable subheading for style numbers 8454 and 3063 will be 6104.43.2020, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Women’s or girls’ suits, ensembles, suit-type jackets, blazers, dresses...; knitted or crocheted: Dresses: Of synthetic fibers: Other: Girls’.” The rate of duty will be 16 percent ad valorem.

The applicable subheading for style number 19446 will be 6204.43.4040, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Women’s or girls’ suits, ensembles, suit-type jackets, blazers, dresses...: Dresses: Of synthetic fibers: Other, Other: Girls’.” The rate of duty will be 16 percent ad valorem.

The applicable subheading for style number 13107 (garter) will be 6212.90.0030, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted: Other, of man-made fibers or man-made fibers and rubber or plastics.” The rate of duty will be 6.6 percent ad valorem.

The applicable subheading for style number 13107 (plastic toy saber) will be 9503.00.0090, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Tricycles, scooters, pedal cars and similar wheeled toys...puzzles of all kinds; Parts and accessories thereof...other.” The rate of duty will be Free.

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

We are returning your request for a classification ruling for style number 6498, the Tinkerbell Classic Adult Costume and any related samples, exhibits, etc., because of non-conformity with the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177). According to 19 C.F.R. 177.1(a)(2)(i):

A question arising in connection with a Customs transaction already before a Customs office will normally be resolved by that office in accordance with the principles and precedents previously announced by the Headquarters Office. If such a question cannot be resolved on the basis of clearly established rules set forth in the Customs and related laws, or in the regulations there under, or in applicable Treasury Decisions, rulings, opinions, or court decisions published in the Customs Bulletin, that office may be requested to forward the question to the Headquarters Office for consideration, as more fully described in Section 177.11. We are unable to issue a ruling for style number 6498, the Tinkerbell Classic Adult Costume because this request concerns issues (classification of similar fairy costumes) which are currently before Headquarters.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Kimberly Praino at (646) 733-3053.

Sincerely,

THOMAS J. RUSSO
Director

National Commodity Specialist Division

ATTACHMENT I

N173438

July 14, 2011

CLA-2-61:OT:RR:NC:N3:359

CATEGORY: Classification

TARIFF NO.: 6110.30.3059

MR. T. C. LI
HMS PRODUCTIONS INC.
250 WEST 39TH STREET
NY, NY 10018

RE: The tariff classification of women's garments from China

DEAR MR. T. C.:

In your letter dated June 29, 2011, you requested a tariff classification ruling. The provided samples are being returned as per your request.

Style 63917 is a "cable & gauge" label women's sleeveless pullover garment constructed of 100% viscose knitted fabric. The outer surface of the fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment features a rounded front neckline, a high rear neckline, and a straight hemmed garment bottom. The garment extends to below the waist. Decorative knit and woven strips are applied to the front panel of the garment. The essential character is imparted by 100% viscose knitted fabric of the garment body, General Rules of Interpretation (GRI) 3(b) noted.

Style 65896 is a "cable & gauge" label women's pullover garment constructed of 52% viscose 46% nylon 2% spandex knitted fabric. The outer surface of the fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment features a rounded front neckline, three-quarter length sleeves with tubular self-start bottoms, and a straight tubular garment bottom. The garment extends to below the waist. Woven fabric trim in a curved design has been applied to the front panel. The essential character is imparted by 52% viscose 46% nylon 2% spandex knitted fabric of the garment body, General Rules of Interpretation (GRI) 3(b) noted.

The applicable subheading for both garments will be 6110.30.3059, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted (con.): Of man-made fibers: Other: Other: Women's or girls': Other. The duty rate will be 32% ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Francine Vivona-Brock at (646) 733-3049.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

ATTACHMENT J

N138899

January 13, 2011
CLA-2-61:OT:RR:NC:TAB:359
CATEGORY: Classification
TARIFF NO.: 6110.30.3059

MS. JACLYN CHIA
MARCONI INTERNATIONAL (USA) Co., LTD.
214 WEST 39TH STREET, SUITE 1100
NY, NY 10018

RE: The tariff classification of a women's garment from China

DEAR MS. CHIA:

In your letter dated December 8, 2010, you requested a tariff classification ruling. The submitted sample is being retained for our files.

Style 918830 is a women's sleeveless pullover garment constructed of knitted 95% rayon 5% spandex fabric. The outer surface of the fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The fully lined garment features a rounded front neckline, a high rear neckline that reaches the nape of the neck, and a straight garment bottom with a cut raw fabric edge. The garment extends to below the waist. Decorative nylon mesh fabric strips are applied to the front panel of the garment. The essential character is imparted by knitted 95% rayon 5% spandex fabric of the garment body, General Rules of Interpretation (GRI) 3(b) noted.

The applicable subheading for the garment will be 6110.30.3059, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted: Of man-made fibers: Other: Other: Other: Women's or girls': Other. The duty rate will be 32% ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Francine Vivona-Brock at (646) 733-3049.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

ATTACHMENT K

N138900

January 13, 2011
CLA-2-61:OT:RR:NC:TAB:359
CATEGORY: Classification
TARIFF NO.: 6110.20.2079

MS. JACLYN CHIA
MARCONI INTERNATIONAL (USA) Co., LTD.
214 WEST 39TH STREET, SUITE 1100
NY, NY 10018

RE: The tariff classification of a women's garment from China

DEAR MS. CHIA:

In your letter dated December 8, 2010, you requested a tariff classification ruling. We are retaining the submitted sample for our files.

Style 918831 is a women's short sleeve pullover garment constructed of a knitted 100% cotton fabric. The outer surface of the fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment features a rounded front neckline, short hemmed sleeves, and a straight hemmed garment bottom. The garment extends to below the waist. Decorative man-made fiber woven sateen and chiffon fabric strips are applied to the front panel of the garment. The essential character is imparted by knit cotton fabric of the garment body, General Rules of Interpretation (GRI) 3(b) noted.

The applicable subheading for the garment will be 6110.20.2079, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sweater...and similar articles, knitted or crocheted: Of cotton: Other...Other: Other: Women's: Other. The duty rate will be 16.5% 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 World Wide Web at <http://www.usitc.gov/tata/hts/>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Francine Vivona-Brock at (646) 733-3049.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

ATTACHMENT L

N043115

November 21, 2008

CLA-2-61:OT:RR:NC:TA:359

CATEGORY: Classification

TARIFF NO.: 6110.90.9090; 6211.49.1050;

Ms. VICKY LEE

J. CREW GROUP, INC.

770 BROADWAY, 11TH FLOOR

NEW YORK, NY 10003

RE: The tariff classification of women's wearing apparel from China.

DEAR Ms. LEE:

In your letter dated October 29, 2008, you requested a classification ruling. Your samples are being returned as requested.

The submitted sample, style D111496, is a woman's cut and sewn cardigan that is constructed from 50% linen, 50% cotton knit fabric with 90% silk, 10% nylon woven fabric overlays on the front panels. The outer surface of the knit fabric measures more than 9 stitches per 2 centimeters in the direction that the stitches were formed. The garment features a V-neckline, long sleeves with ribbed cuffs, a full front opening with 5 button closures, 2 front inset pockets finished with knit fabric trim, and a ribbed bottom. The placket is finished with ribbed fabric. The essential character is imparted by the knit fabric of the garment.

The submitted sample, style D112084, is a woman's blouse composed of knit and woven components. The back panel, sleeves, waistband and trim around the neck opening and along the front openings are constructed from 55% silk, 45% linen knit fabric. The front panels and the trim on the sleeves are constructed from 100% silk woven fabric. The garment features a V-neckline, long sleeves with buttoned vents, one chest pocket with a buttoned flap, two pockets at the waist with buttoned flaps and a full front opening secured by five buttons.

The woven components of style D112084 imparts the essential character of the garment, therefore, the garment will be classified based upon GRI 3(b), which states that garments will be classified by the component which gives them their essential character. As such, the garment is classified under the heading for women's other garments in heading 6211, HTSUS.

The submitted sample, style D111459, is a woman's cut and sewn cardigan that is constructed from 100% wool knit fabric with 100% silk woven crinkled fabric overlays on the front two panels. The front panels are lined with 100% silk woven fabric. The outer surface of the knit fabric measures more than 9 stitches per 2 centimeters in the direction that the stitches were formed. The garment features a round ribbed neckline, long sleeves with ribbed cuffs, a full front opening with 2 hook and eye closures, a straight bottom (the front panels) and a ribbed bottom (the rear panel). The placket is finished with ribbed fabric. The essential character is imparted by the knit fabric of the garment.

The applicable subheading for style D111496 will be *6110.90.9090*, Harmonized Tariff Schedule of the United States (HTSUS), which provides for sweaters...and similar articles, knitted: of other textile materials: other...other: women's. The duty rate will be 6% ad valorem.

Due to the fact that style D111496 is to be constructed of a 50/50 blend of fibers, it is classified using HTSUS Section XI Note 2(A) and Subheading Note 2(A). The garment will be classified as if it consisted wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration. Even a slight change in the fiber content may result in a change of classification, as well as visa and quota requirements. The garment may be subject to Customs laboratory analysis at the time of importation, and if the fabric is other than a 50/50 blend it may be reclassified by Customs at that time.

The applicable subheading for style D112084 will be *6211.49.1050*, HTSUS, which provides for track suits, ski-suits and swimwear; other garments women or girls': of other textile materials: blouses, shirts and shirt-blouses, sleeveless tank styles and similar upper body garments excluded from heading 6206. The duty rate will be 1.2% ad valorem.

The applicable subheading for style D111459 will be *6110.11.0080*, HTSUS, which provides for sweaters...and similar articles, knitted: of wool or fine animal hair: of wool: other: women's. The duty rate will be 16% ad valorem.

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

Style D111496 falls within textile category 838. Style D112084 falls in category 741. Style D111459 falls in category 438. With the exception of certain products of China, quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Francine Vivona-Brock at 646-733-3049.

Sincerely,

ROBERT B. SWIERUPSKI
Director

National Commodity Specialist Division

ATTACHMENT M

N255267

August 7, 2014
CLA-2-61:OT:RR:NC:N3:359
CATEGORY: Classification
TARIFF NO.: 6110.20.2079

MS. DANA MOBLEY
JCPENNEY PURCHASING CORPORATION
6501 LEGACY DRIVE
MS 2316
PLANO, TX 75024

RE: The tariff classification of a woman's pullover from Vietnam

DEAR MS. MOBLEY:

In your letter dated July 7, 2014, you requested a tariff classification ruling. As requested, your sample will be returned.

Style PPK #94790 is a woman's "Liz Claiborne" label pullover constructed from 60% cotton and 40% polyester jersey knit fabric and a 100% polyester open work knit fabric overlay on the front panel. The outer surface of the garment's fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment features a scoop front neckline, a high rear neckline, short hemmed sleeves and a hemmed bottom. The pullover extends to below the waist. The jersey knit fabric which forms the pullover body imparts the essential character.

The applicable subheading for style PPK #94790 will be 6110.20.2079, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of cotton: Other: Other: Other: Women's or girls': Other. The rate of duty will be 16.5 percent ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Renee Orsat via email at renee.orsat@cbp.dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER
Director
National Commodity Specialist Division

ATTACHMENT N

N254620

July 16, 2014

CLA-2-62:OT:RR:NC:N3:358

CATEGORY: Classification

TARIFF NO.: 6211.32.0081; 6211.33.0061

Ms. VICKY LEE

J. CREW GROUP, INC.

770 BROADWAY, 11TH FLOOR

NEW YORK, NY 10003

RE: The tariff classification of boys' cardigans from China

DEAR Ms. LEE:

In your letter dated June 18, 2014 you requested a tariff classification ruling. The three samples submitted will be retained for training purposes.

Style B1051 is a boy's sweater-like cardigan made from 100 percent cotton knit and woven components. The cardigan features a full front opening secured with four plastic buttons, a rib knit shawl collar, long rib knit sleeves and cuffs, a rib knit front placket and waistband, two flap pockets at the waist and one chest pocket. The front and back panels are formed from a jersey knit fabric which measures more than nine stitches per two centimeters in the direction that the stitches were formed. The knit front panels, excluding the one and one-half inch wide front placket and two inch wide waistband, are overlaid with a cotton woven fabric. You stated that the surface area of the garment is estimated to be 85 percent knit and 15 percent woven.

Style D284690 is a boy's cardigan featuring a full front opening with a zipper closure, a round neck with a stand-up collar and long raglan sleeves. The cardigan is constructed from both knit and woven fabrics. You stated the knit fabric is 100 percent cotton and the woven fabric is 73 percent cotton and 27 percent nylon. The front and back panels, raglan sleeves, cuffs, collar and waistband are constructed from 100 percent cotton jersey knit fabric measuring more than nine stitches per two centimeters in the direction that the stitches were formed. The two inch wide collar, cuffs and waistband are knit in a striped pattern. The two front panels and a one and five-eighths inch portion of the waistband on either side of the zipper are overlaid with the woven fabric. Two front pockets at the waist, each with a one snap flap closure, are formed with the overlay woven fabric. You stated the surface area of the garment is estimated to be 60 percent knit and 40 percent woven.

Style D284691 is a boy's cardigan featuring a round neck with a stand-up collar, long set-in sleeves, a full front opening with a zipper closure and two front pockets at the waist. The cardigan is constructed from both knit and woven fabrics. The front panels, back panel and arms are constructed from 100 percent cotton jersey knit fabric measuring less than nine stitches per two centimeters in the direction that the stitches were formed. The two inch wide collar, cuffs and waistband are made from 100 percent cotton rib knit fabric formed with two stripes in a contrasting color. The two front panels, including the pockets but excluding the waistband, and the back yoke are overlaid with a 44 percent polyester, 39 percent cotton and 17 percent nylon woven fabric. You stated that the surface area is estimated to be 60 percent knit and 40 percent woven.

When garments are composed of both knit and woven portions, classification is generally according to which portion imparts the essential character, in accordance with GRI 3(b) to the HTSUS. When neither component imparts the essential character, the garment is classifiable, in accordance with GRI 3(c), in the competing heading which occurs last in the tariff. The essential character of style D284691 is determined by the woven portion of the garment that comprises the entire front of the garment. In the case of styles B1051 and D284690, neither portion imparts the essential character. Accordingly, all three styles are classifiable as woven garments.

The applicable subheading for styles B1051 and D284690 will be 6211.32.0081, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Track suits, ski-suits and swimwear; other garments: Other garments, men's or boys': Of cotton: Other." The rate of duty will be 8.1 percent.

The applicable subheading for style D284691 will be 6211.33.0061, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Track suits, ski-suits and swimwear; other garments: Other garments, men's or boys': Of man-made fibers: Other." The rate of duty will be 16 percent.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Kim Wachtel at Kimberly.A.Wachtel@cbp.dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER

Director

National Commodity Specialist Division

ATTACHMENT O

HQ H270389

OT:RR:CTF:FTM H270389 PJG

CATEGORY: Classification

TARIFF NO.: 6110.11.00

DAVID M. MURPHY

GRUNFELD, DESIDERIO, LEBOWITZ & SILVERMAN

12 EAST 49TH STREET

NEW YORK, NEW YORK 10017

RE: Modification of HQ 950007, HQ 960960, NY N257834, NY N257469, NY N243946, NY N242436, NY N235714, NY N208296, NY N173438, NY N138899, NY N138900, and NY N043115; revocation of NY N255267 and NY N254620; tariff classification of garments with overlays

DEAR MR. MURPHY:

On October 4, 1991, U.S. Customs and Border Protection (“CBP”) issued to you Headquarters Ruling Letter (“HQ”) 950007 with respect to Kobra Trading International Ltd. The ruling pertains to the tariff classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) of two women’s knit pullover garments with woven fabric overlaid fronts. We have since reviewed HQ 950007 and determined that while the classification provided is correct, there is an in error with respect to the General Rule of Interpretation (“GRI”) citation set forth in the Holding section of the ruling. Rather than referencing GRI 3(b), CBP should have cited GRI 1, consistent with the analysis provided in the Law and Analysis section of the ruling. Accordingly, HQ 950007 is modified.

For the reasons set forth below, we are taking a number of actions with respect to substantially similar merchandise. These actions are intended to clarify the proper classification analysis with regard to apparel that consists of more than one fabric.

First, we are modifying ten additional rulings on substantially similar merchandise: New York Ruling Letter (“NY”) NY N257834, dated October 15, 2014, NY N257469, dated October 7, 2014, NY N243946, dated July 23, 2013, NY N242436, dated June 7, 2013, NY N235714, dated December 4, 2012, NY N208296, dated March 23, 2012 (style 19446), NY N173438, dated July 14, 2011 (styles 63917 and 65896), NY N138899, dated January 13, 2011, NY N138900, dated January 13, 2011, and NY N043115, dated November 21, 2008 (styles D111496 and D111459).

In each of these rulings, the tariff classification provided is correct. However, we are modifying the rulings by removing discussion of the essential character and providing that the merchandise is classifiable on the basis of GRI 1 rather than GRI 3(b).

In addition, we are modifying HQ 960960, dated April 10, 2001 only insofar as to remove the parenthetical that inaccurately describes the term “overlay” as that “(which is a merely a decorative addition to the garment).”

Finally, we are revoking NY N255267, dated August 7, 2014, and NY N254620, dated July 16, 2014. In each of these two rulings the essential character criterion was incorrectly applied. In NY N255267, the subject garment should have been classified by applying GRI 3(b) with the essential character being imparted by the open work knit fabric overlay rather than the body fabric. In NY N254620, the subject garment should have been

classified on the basis of its knit body fabric by applying GRI 1, rather than classifying the garment on the basis of its overlay fabric by applying GRI 3(c).

FACTS:

In HQ 950007, the two women’s knit pullover garments with woven fabric overlaid fronts were described as follows:

Style No. 9746 is a woman’s V-neck sleeveless knit wool pullover. It has large armhole openings finished with rib knit capping, and a 3 inch wide rib knit waistband. The garment extends below the waist and is intended to be worn over other outer wearing apparel. The knit fabric comprising the garment is constructed with more than nine stitches per two centimeters. The entire front, except for the arm, neck, and waist bands, is overlaid with a decoratively printed woven silk fabric.

Style No. 1157 is essentially the same garment as Style No. 9746, except that it has long sleeves with rib knit cuffs and the waistband is 2–3/4 inches wide.

The knit portions of the garments are stated to comprise over 60 percent of the surface area of each garment and over 85 percent of the weight of each garment.

HQ 950007 also indicated that the garments include “wide solid black waistbands” that “contrast markedly with the brightly colored silk overlays” and “constitute a significant frontal presence.”

ISSUE:

What is the proper classification of the subject two women’s knit pullover garments with woven fabric overlaid fronts?

LAW AND ANALYSIS:

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

The 2019 HTSUS provisions under consideration are as follows:

6110 Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted:

* * *

6211 Track suits, ski-suits and swimwear; other garments:

Note 2 to Section XI, HTSUS, provides as follows:

(A) Goods classifiable in chapters 50 to 55 or in heading 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over each other single textile materials.

When no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material

which is covered by the heading which occurs last in numerical order among those which equally merit consideration.

- (B) For the purposes of the above rule:
- (a) Gimped horsehair yarn (heading 5110) and metalized yarn (heading 5605) are to be treated as a single textile material the weight of which is to be taken as the aggregate of the weights of its components; for the classification of woven fabrics, metal thread is to be regarded as a textile material;
 - (b) The choice of appropriate heading shall be effected by determining first the chapter and then the applicable heading within that chapter, disregarding any materials not classified in that chapter;
 - (c) When both chapters 54 and 55 are involved with any other chapter, chapters 54 and 55 are to be treated as a single chapter;
 - (d) Where a chapter or a heading refers to goods of different textile materials, such materials are to be treated as a single textile material.
- (C) The provisions of paragraphs (A) and (B) above apply also to the yarns referred to in notes 3, 4, 5 or 6 below.

Subheading Note 2 to Section XI, HTSUS, provides as follows:

- (A) Products of chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under note 2 to this section for the classification of a product of chapters 50 to 55 or of heading 5809 consisting of the same textile materials.
- (B) For the application of this rule:
- (a) Where appropriate, only the part which determines the classification under general interpretative rule 3 shall be taken into account;
 - (b) In the case of textile products consisting of a ground fabric and a pile or looped surface no account shall be taken of the ground fabric;
 - (c) In the case of embroidery of heading 5810 and goods thereof, only the ground fabric shall be taken into account. However, embroidery without visible ground, and goods thereof, shall be classified with reference to the embroidering threads alone.

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the “official interpretation of the Harmonized System” at the international level. *See* 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989). 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 id.*

General EN to Chapter 61 states, in pertinent part:

The classification of goods in this Chapter is not affected by the presence of parts or accessories of, for example, woven fabrics, furskin, feathers, leather, plastics or metal. Where, however, the presence of these materi-

als constitutes **more than mere trimming** the articles are classified in accordance with the relative Chapter Notes (particularly Note 4 to Chapter 43 and Note 2 (b) to Chapter 67, relating to the presence of furskin and feathers, respectively), or failing that, according to the General Interpretative Rules.

General EN to Chapter 62 states, in pertinent part:

The classification of goods in this Chapter is not affected by the presence of parts or accessories of, for example, knitted or crocheted fabrics, furskin, feather, leather, plastics or metal. Where, however, the presence of such materials constitutes **more than mere trimming** the articles are classified in accordance with the relative Chapter Notes (particularly Note 4 to Chapter 43 and Note 2 (b) to Chapter 67, relating to the presence of furskin and feathers, respectively), or failing that, according to the General Interpretative Rules.

When considering the classification of apparel made up of both woven and knit fabrics, guidance may be found in HQ Memorandum 084118 (April 13, 1989), which states in pertinent part:

- (a) For upper or lower body garments, if one component exceeds 60 percent of the visible surface area, that component will determine the classification of the garment unless the other component:
 - (1) forms the entire front of the garment; or
 - (2) provides a visual and significant decorative effect (e.g., a substantial amount of lace); or
 - (3) is over 50 percent by weight of the garment; or
 - (4) is valued at more than 10 times the primary component.

If no component comprises 60 percent of the visible surface area, or if any of the above four listed conditions are present, classification will be according to GRI 3(b) or 3(c), as appropriate.

In HQ Memorandum 080817 (Aug. 31, 1987), the U.S. Customs Service (“Customs”) discussed General ENs to Chapters 61 and 62 and the effect of trimming. HQ Memorandum 080817 explains that apparel is usually classified according to its outer shell. Customs interpreted the term “trimming” used in the ENs to Chapters 61 and 62 to mean “parts or accessories of a garment that do not materially contribute to its character or usefulness.”

HQ Memorandum 080817 states that in instances wherein a garment contains accessories or parts that are merely trimming, then the garment should be classified according to Subheading Note 2(A) to Section XI, HTSUS, that is on the basis of the one textile material which predominates by weight or, if no material predominates by weight, on the basis of the material that occurs last in numerical order among those that merit equal consideration. No consideration should be given to the trimmings.

By contrast, the memorandum also explains that, in accordance with the ENs to Chapters 61 and 62, when the garment includes “materials that constitute more than mere trimming” then those materials are to be considered when classifying the garment. In such instances, the garment must be classified in accordance with Subheading Note 2(B)(a) to Section XI, HTSUS. Examples of parts and accessories that are merely trimmings includes un-

important linings, shoulder pads, and pockets. Examples of parts and accessories that are “more than mere trimming” includes heavy weight linings that provide substantial warmth.

Accordingly, in classifying an upper body garment of Chapters 61 or 62 with an overlay, we must consider whether the overlay “constitutes **more than mere trimming**.” In instances where the overlay to an upper body garment of Chapters 61 or 62 is mere trimming (decorative), then we classify the garment in accordance with Subheading Note 2(A) to Section XI, HTSUS, disregarding the overlay. However, in instances where the overlay to an upper body garment of Chapters 61 or 62 is more than mere trimming (integral), then we classify the garment in accordance with Subheading Note 2(B)(a) to Section XI, HTSUS, which means that we consider GRI 3 in determining whether the overlay or the material forming the rest of the upper body of the garment will be considered in applying Subheading Note 2(A) to Section XI, HTSUS. *See* Subheading Note 2(B)(a) to Section XI, HTSUS; *see also* HQ Memorandum 080817. The determination of whether an overlay is a trimming or “more than a mere trimming” must be made on a case-by-case basis.

HQ 950007 indicates that “the waistbands constitute a significant frontal presence” and that while covering most of the front, the silk overlays do not form the entire front of the garments. Moreover, the ruling indicates that the silk overlays were simply decorative trimmings and, therefore, should be disregarded in the classification of the merchandise pursuant to the ENs to Chapters 61 and 62, HTSUS. Accordingly, the ruling concludes in the Law and Analysis section that “the garments should be classified pursuant to GRI 1 without any consideration being given to the overlaid woven silk fabric fronts.” Based on the description of the merchandise provided in HQ 950007 and the analysis provided therein, the Holding in HQ 950007 should be modified to indicate that the garments are classified based on the knit fabric pursuant to GRI 1 rather than GRI 3.

The tariff classification indicated in the Holding section of HQ 950007 is correct based on the remaining analysis provided in the ruling. Specifically, Style No. 9746 was properly classified in subheading 6110.10.2060, HTSUSA (Annotated), and Style No. 1157 was properly classified in subheading 6110.10.2080, HTSUSA.¹ The corresponding subheading in the 2019 HTSUS for garments composed of wool is subheading 6110.11.00, HTSUS.

In this ruling, we are modifying eleven additional rulings, specifically: HQ 960960, NY N257834, NY N257469, NY N243946, NY N242436, NY N235714, NY N208296, NY N173438, NY N138899, NY N138900, and NY N043115. In each of these rulings, except for HQ 960960, we are modifying the ruling only insofar as to remove the essential character determination and to clarify that the merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b). The tariff classification in each of these rulings is otherwise correct. We are modifying HQ 960960 only insofar as to remove the parenthetical that inaccurately describes the term “overlay” as that “(which is a merely a decorative addition to the garment).” This is an incorrect statement because an overlay may be mere trimming (decorative) or more than mere trimming (integral).

We are also revoking NY N255267, dated August 7, 2014, which concerned the classification of a “woman’s ... pullover constructed from 60% cotton and

¹ Style Nos. 9746 and 1157 were composed of wool.

40% polyester jersey knit fabric and a 100% polyester open work knit fabric overlay on the front panel.... The garment features a scoop front neckline, a high rear neckline, short hemmed sleeves and a hemmed bottom. The pull-over extends to below the waist.” In NY N255267, CBP classified the subject merchandise in subheading 6110.20.2079, HTSUSA, which provides for “Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of cotton: Other: Other: Other: Women’s or girls’: Other,” on the basis of the jersey knit fabric that formed the body of the garment pursuant to GRI 3(b). The knit overlay in this case is more than mere trimming because by covering the full front panel it materially contributes to the character of the garment; therefore, we must consider the overlay material when classifying the garment and we must classify the merchandise in accordance with Subheading Note 2(B)(a) to Section XI, HTSUS. See HQ Memorandum 080817. Subheading Note 2(B)(a) to Section XI, HTSUS, states that “[w]here appropriate, only the part which determines the classification under general interpretative rule 3 shall be taken into account.” Applying GRI 3(b) and the guidance provided by HQ Memorandum 084118 to the subject garment, we find that the essential character of this garment is imparted by the open work knit fabric overlay that covers the entire front of the garment. See also NY N271104 (Dec. 22, 2015), NY 273008 (March 9, 2016). Accordingly, the subject merchandise is properly classified in subheading 6110.30.30, HTSUS, which provides for “Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of man-made fibers: Other: Other: Other.”

Finally, we are revoking NY N254620, dated July 16, 2014, which concerned the classification of three styles of boy’s cardigans (Styles B1051, D284690, and D284691) each constructed of a knit body fabric. Style B1051 has a woven fabric overlay that covers the “knit front panels, excluding the one and one-half inch wide front placket and two inch wide waistband.” Style D284690 has a woven fabric overlay that covers the “two front panels,” the two “and a one and five-eighths inch portion of the waistband on either side of the zipper,” and the “[t]wo front pockets at the waist, each with a one snap flap closure.” Style D284691 has a woven fabric overlay that covers the “two front panels, including the pockets but excluding the waistband, and the back yoke.” Style D284691 was misclassified on the basis of GRI 3(b) and it was determined that the overlay imparted the essential character of the garment. CBP classified style D284691 in subheading 6211.33.0061, HTSUSA, which in the 2014 Revision 1 Edition of the HTSUS, provided for “Track suits, ski-suits and swimwear; other garments: Other garments, men’s or boys’: Of man-made fibers: Other.”

In NY N254620, styles B1051 and D284690 were misclassified pursuant to GRI 3(c) because it was determined that neither the woven overlay nor the knit body fabric imparted the essential character of the garment. For both Styles B1051 and D284690, CBP applied a GRI 3(c) analysis and classified the garments in subheading 6211.32.0081, HTSUSA, which in the 2014 Revision 1 Edition of the HTSUS, provided for “Track suits, ski-suits and swimwear; other garments: Other garments, men’s or boys’: Of cotton: Other.” Upon reviewing the samples submitted for this ruling, we note that the overlay on each of the subject three style cardigans is mere trimming because the overlay on each garment is only decorative and does not contribute to the character or usefulness of the cardigans. See *Rubies Costume Co. v. United States*, 279 F. Supp. 3d 1145, 1169 (Ct. Int’l Trade 2017) (stating that

EN 61.10 “provides examples of articles that share the essential characteristics of the articles named in the heading; that is, articles that cover the upper body, provide warmth, and may be worn over a light garment”). The knit fabric imparts the warmth provided by these cardigans. Therefore, the overlays should be disregarded for classification purposes. *See* General EN to Chapter 61. Consequently, the three styles of boy’s cardigans (Styles B1051, D284690, and D284691) are properly classified pursuant to GRI 1 as knit garments in subheading 6110.20.20, HTSUS, which provides for “Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of cotton: Other.”

HOLDING:

Under the authority of GRIs 1, 3(b)², and 6 Style Nos. 1157 and 9746 are classified under heading 6110, HTSUS, specifically, in subheading 6110.11.00, HTSUS, which provides for “Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of wool or fine animal hair: Of wool.” The 2019 column one, general rate of duty for 6110.11.00, HTSUS, is 16 percent *ad valorem*.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the internet at www.usitc.gov/tata/hts/.

EFFECT ON OTHER RULINGS:

HQ 950007, dated October 4, 1991, is MODIFIED as described herein.

HQ 960960, dated April 10, 2001, is MODIFIED by removing the parenthetical that describes the term “overlay” by stating that an overlay is that “(which is a merely a decorative addition to the garment).”

NY N257834, dated October 15, 2014, is MODIFIED by removing the essential character determination, however, the merchandise was properly classified based on the body fabric. The merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b).

NY N257469, dated October 7, 2014, is MODIFIED by removing the essential character determination, however, the merchandise was properly classified based on the body fabric. The merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b).

NY N243946, dated July 23, 2013, is MODIFIED by removing the essential character determination, however, the merchandise was properly classified based on the body fabric. The merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b).

NY N242436, dated June 7, 2013, is MODIFIED by removing the essential character determination, however, the merchandise was properly classified based on the body fabric. The merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b).

NY N235714, dated December 4, 2012, is MODIFIED by removing the essential character determination, however, the merchandise was properly classified based on the body fabric. The merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b).

NY N208296, dated March 23, 2012, is MODIFIED by removing the determination for style 19446 that the essential character of the dress is the

² GRI 3(b) only applies to NY N255267.

woven fabric, however, the merchandise was properly classified based on the woven fabric. The merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b).

NY N173438, dated July 14, 2011, is MODIFIED by removing the essential character determination for styles 63917 and 65896, however, both styles 63917 and 65896 were properly classified based on the body fabric. The merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b).

NY N138899, dated January 13, 2011, is MODIFIED by removing the essential character determination, however, the merchandise was properly classified based on the body fabric. The merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b).

NY N138900, dated January 13, 2011, is MODIFIED by removing the essential character determination, however, the merchandise was properly classified based on the body fabric. The merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b).

NY N043115, dated November 21, 2008, is MODIFIED by removing the essential character determination for styles D111496 and D111459, however, both styles D111496 and D111459 were properly classified based on the body fabric. The merchandise should have been classified on the basis of GRI 1 rather than GRI 3(b).

NY N255267, dated August 7, 2014, is REVOKED.

NY N254620, dated July 16, 2014, is REVOKED.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED MODIFICATION OF THREE RULING LETTERS
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF
WOMEN'S SHIRTS WITH PARTIAL OPENINGS AND NO
MEANS OF CLOSURE**

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

ACTION: Notice of proposed modification of three ruling letters and proposed revocation of treatment relating to the tariff classification of women's shirts with partial openings and no means of closure.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to modify three ruling letters concerning tariff classification of women's shirts with partial openings and no means of closure under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before December 6, 2019.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229-1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Parisa J. Ghazi, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325-0272.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to modify three ruling letters pertaining to the tariff classification of women's shirts with partial openings and no means of closure. Although in this notice, CBP is specifically referring to New York Ruling Letter ("NY") N019202, dated November 21, 2007 (Attachment A), NY N018064, dated October 26, 2007 (Attachment B), and NY M80970, dated March 30, 2006 (Attachment C), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the three identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this 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 the final decision on this notice.

In NY N019202, NY N018064 and NY M80970, CBP indicated that a means of closure is necessary for garments with partial openings of heading 6106, HTSUS. The legal notes to the HTSUS and the ENs do not provide a basis for this determination. We are modifying these rulings to remove the language indicating that a means of closure is necessary for garments of heading 6106, HTSUS.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to modify NY N019202, NY N018064 and NY M80970 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H304882, set forth as Attachment D to this notice. Additionally, pursuant to 19

U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: October 17, 2019

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N019202

November 21, 2007
CLA-2-61:OT:RR:NC:3:359
CATEGORY: Classification
TARIFF NO.: 6110.20.2079

MR. FERNANDO RAMOS
AVON PRODUCTS INC.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1196

RE: The tariff classification of a woman's sleeveless pullover from China.

DEAR MR. RAMOS:

In your letter dated October 26, 2007 you requested a classification ruling. As requested, your sample is being returned to you.

The submitted sample, style PP 1055625, is a woman's cut and sewn sleeveless pullover constructed from 95% cotton and 5% spandex knit fabric. The outer surface of the garment measures more than nine stitches per two centimeters in the direction in which the stitches were formed. The garment features a v-neckline with decorative beadwork on the upper front panel and a hemmed bottom. You asserted classification as a blouse under 6106.10.0010, HTSUS. However, the garment lacks a full or partial opening with a means of closure.

Style PP 1055625 is properly classified as a sleeveless pullover under 6110.20.2079, HTSUS.

The applicable subheading for the pullover will be 6110.20.2079, Harmonized Tariff Schedule of the United States (HTSUS), which provides for sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: of cotton: other: other: other: women's or girls': other. The duty rate will be 16.5%.

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

The pullover falls within textile category 339. With the exception of certain products of China, quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is

imported. If you have any questions regarding the ruling, contact National Import Specialist Francine Vivona-Brock at 646-733-3049.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

ATTACHMENT B

N018064

October 26, 2007

CLA-2-61:OT:RR:NC:3:359

CATEGORY: Classification

TARIFF NO.: 6110.30.3059

MR. FERNANDO RAMOS
AVON PRODUCTS INC.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1196

RE: The tariff classification of a woman's pullover from China.

DEAR MR. RAMOS:

In your letter dated September 27, 2007 you requested a classification ruling. As requested, your sample is being returned to you.

The submitted sample, style PP 1054361, is a woman's cut & sewn pullover that is constructed of a 65% polyester and 35% rayon knit fabric. The outer surface of the fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment features a v-shaped neckline with decorative trim extending below the bust area, short hemmed sleeves, a self-fabric tie at the garment rear, and a hemmed bottom. You asserted classification as a blouse under 6106.20.2010, HTSUS. Due to the lack of a full or partial opening with a means of closure, the garment is precluded from 6106, HTSUS. The proper classification would be as a pullover under 6110, HTSUS.

The applicable subheading for the pullover will be *6110.30.3059*, Harmonized Tariff Schedule of the United States (HTSUS), which provides for sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted (con): of man-made fibers (con): other: other: other: other: women's or girls': other. The duty rate will be 32% ad valorem.

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

The pullover falls within textile category 639. With the exception of certain products of China, quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is

imported. If you have any questions regarding the ruling, contact National Import Specialist Francine Vivona-Brock at 646-733-3049.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

ATTACHMENT C

NY M80970

March 30, 2006

CLA-2-62:RR:NC:N3:361 M80970

CATEGORY: Classification

TARIFF NO.: 6110.20.2079; 6114.20.0010;
6211.42.0081

MR. EDWARD MITTELSTAEDT, VICE PRESIDENT

MITTELSTAEDT, GALAVIZ, & MYLIN, INC.

341 BROADWAY

SAN FRANCISCO, CA 94133

RE: The tariff classification of three women's upper body garments from Macau

DEAR MR. MITTELSTAEDT:

In your letter dated February 26, 2006, you requested a tariff classification ruling for three women's garments on behalf of & Co., DBA ISDA & Co. The submitted items will be returned to you as requested.

Style R3417 is a woman's pullover styled top constructed from 100 percent cotton knit fabric. The top has a deep V neckline, short sleeves, and an unfinished bottom. The top provides sufficient coverage of the bust area. You have suggested that this garment be classified as a shirt of heading 6106. Garments of heading 6106 must have an opening with a closure (buttons, for example). As this garment does not have the required opening and closure, it cannot be classified in heading 6106.

Style R3405 is a woman's cardigan constructed from 100 percent cotton knit fabric. The cardigan has a full front opening, long sleeves, and an unfinished bottom. The garment also has a drawstring inserted through a tunnel at the waist, which can be tied and used as a closure.

Style 1622Q33 is a woman's top constructed from 52 percent cotton, 48 percent silk woven fabric. The top has long sleeves, a full front opening meant to be tied at the waist. The garment is intended to be worn over another upper body garment, such as a blouse or T-shirt.

The applicable subheading for style R3417 will be *6114.20.0010*, Harmonized Tariff Schedule of the United States (HTSUS), which provides for other garments, knitted or crocheted: of cotton: Tops: women's'. The rate of duty will be 10.8 percent ad valorem.

The applicable subheading for style R3405 will be *6110.20.2079*, Harmonized Tariff Schedule of the United States (HTSUS), which provides for sweaters...and similar articles, knitted or crocheted: of cotton: Other: Women's or girls': Other. The rate of duty will be 16.5 percent ad valorem.

The applicable subheading for style 1622Q33 will be *6211.42.0081*, Harmonized Tariff Schedule of the United States (HTSUS), which provides for other garments: Women's or girls': Of cotton, Other. The rate of duty will be 8.1 percent ad valorem.

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

Styles R3417 and R3405 fall within textile category designation 339; style 1622Q33 falls within textile category designation 359. Quota and visa status are the result of international agreements that are subject to frequent rene-

gotiations and changes. To obtain the most current information as to whether quota and visa requirements apply to this merchandise, we suggest that you check, close to the time of shipment, the “Textile Status Report for Absolute Quotas” available at our web site at www.cbp.gov. In addition, you will find current information on textile import quotas, textile safeguard actions and related issues at the web site of the Office of Textiles and Apparel, at otexa.ita.doc.gov.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Angela DeGaetano at 646-733-3052.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

ATTACHMENT D

HQ H304882
OT:RR:CTF:FTM H304882 PJG
CATEGORY: Classification
TARIFF NO.: 6110.20.2079, 6110.30.3059,
6114.20.0010

MR. FERNANDO RAMOS
AVON PRODUCTS INC.
1251 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10020-1196

RE: Modification of NY N019202, NY N018064 and NY M80970; tariff classification of women's shirts with partial openings and no means of closure

DEAR MR. RAMOS:

On October 26, 2007, U.S. Customs and Border Protection ("CBP") issued to you New York Ruling Letter ("NY") N018064. The ruling pertains to the tariff classification under the Harmonized Tariff Schedule of the United States ("HTSUS") of a woman's pullover, specifically, style PP 1054361. We have since reviewed NY N018064 and determined it to be in error only insofar as including a statement requiring a means of closure for garments with partial openings of heading 6106, HTSUS. Accordingly, NY N018064 is modified.

For the same reason, we are also modifying NY N019202 (style PP 1055625), dated November 21, 2007, and NY M80970 (style R3417), dated March 30, 2006. Specifically, in both of these rulings, CBP precluded certain shirts with v-necklines from classification in heading 6106, HTSUS, because they did not have a means of closure. Accordingly, we are modifying these rulings to correct this error.

FACTS:

In NY N018064, style PP 1054361 is described as follows:

a woman's cut & sewn pullover that is constructed of a 65% polyester and 35% rayon knit fabric. The outer surface of the fabric measures more than nine stitches per two centimeters in the direction that the stitches were formed. The garment features a v-shaped neckline with decorative trim extending below the bust area, short hemmed sleeves, a self-fabric tie at the garment rear, and a hemmed bottom.

In NY N018064, CBP stated that style PP 1054361 is precluded from classification in heading 6106, HTSUS, "[d]ue to the lack of a full or partial opening with a means of closure." Instead, CBP classified style PP 1054361 in subheading 6110.30.3059, HTSUS, which provides for "Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of man-made fibers: Other: Other: Other: Other: Other: Women's or girls': Other."

ISSUE:

Is a means of closure necessary for garments of heading 6106, HTSUS?

LAW AND ANALYSIS:

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

The 2019 HTSUS provisions under consideration are as follows:

- 6106** Women’s or girls’ blouses and shirts, knitted or crocheted:
- 6110** Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted:
- 6114** Other garments, knitted or crocheted:

Note 9 to Chapter 61, HTSUS, provides as follows:

Garments of this chapter designed for left over right closure at the front shall be regarded as men’s or boys’ garments, and those designed for right over left closure at the front as women’s or girls’ garments. These provisions do not apply where the cut of the garment clearly indicates that it is designed for one or other of the sexes.

Garments which cannot be identified as either men’s or boys’ garments or as women’s or girls’ garments are to be classified in the headings covering women’s or girls’ garments.

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the “official interpretation of the Harmonized System” at the international level. *See* 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989). 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 id.*

The General EN to Chapter 61 states, in relevant part, as follows:

By application of the provisions of Note 9 to this Chapter garments having a front opening which fastens or overlaps left over right are considered to be garments for men or boys. When the opening fastens or overlaps right over left these garments are considered to be garments for women or girls.

These provisions do not apply where the cut of the garment clearly indicates that it is designed for one or the other of the sexes. Garments which cannot be identified as either men’s or boys’ garments or women’s or girls’ garments are to be classified in the headings covering women’s or girls’ garments.

Shirts and shirt blouses are garments designed to cover the upper part of the body, having long or short sleeves and a full or partial opening starting at the neckline. They may also have pockets, but only above the waist, and a collar.

In NY N019202 (style PP 1055625), NY N018064 (style PP 1054361), and NY M80970, CBP stated that the garments were not classifiable in heading 6106, HTSUS, because they did not have a means of closure. The legal notes to the HTSUS and the ENs do not provide a basis for this determination. We

are modifying these rulings to remove the language indicating that a means of closure is necessary for garments of heading 6106, HTSUS.

In NY N019202 (style PP 1055625), the garment was not classifiable in heading 6106, HTSUS, as a women's or girls' blouse or shirt, because it was sleeveless. According to General EN to Chapter 61, shirts and shirt-blouses of Chapter 61 have long or short sleeves. Therefore, we are modifying NY N019202 by removing the sentence that states, "However, the garment lacks a full or partial opening with a means of closure."

In NY N018064 (style PP 1054361) and NY M80970 (style R3417), the garments were not classifiable as shirts or shirt-blouses of heading 6106, HTSUS, because they did not have a full or partial opening starting at the neckline in accordance with General EN to Chapter 61. Therefore, we are modifying NY N018064 by removing the words "with a means of closure" because the absence of a means of closure is not the reason that the garment is precluded from classification in heading 6106, HTSUS. We are also modifying NY M80970 by removing the following sentences, "Garments of heading 6106 must have an opening with a closure (buttons, for example). As this garment does not have the required opening and closure, it cannot be classified in heading 6106." In place of this sentence, we are stating that, "Style R3417 is not classifiable in heading 6106, HTSUS, because it does not have a full or partial opening starting at the neckline in accordance with General EN to Chapter 61."

HOLDING:

A means of closure is not necessary for garments with partial openings of heading 6106, HTSUS. Accordingly, we are modifying NY N018064 to remove language indicating that such a feature is required for goods of heading 6106, HTSUS.

EFFECT ON OTHER RULINGS:

NY N019202 (style PP 1055625), dated November 21, 2007, is hereby MODIFIED only insofar as to remove the sentence that states, "However, the garment lacks a full or partial opening with a means of closure."

NY N018064 (style PP 1054361), dated October 26, 2007, is hereby MODIFIED only insofar as to remove the words "with a means of closure."

NY M80970 (style R3417), dated March 30, 2006, is hereby MODIFIED only insofar as to remove the following sentences, "Garments of heading 6106 must have an opening with a closure (buttons, for example). As this garment does not have the required opening and closure, it cannot be classified in heading 6106."

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

Sincerely,

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

AGENCY INFORMATION COLLECTION ACTIVITIES:**Application for Identification Card**

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

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

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than November 20, 2019) 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 *dhsdeskofficer@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number (202) 325-0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 41728) on August 15, 2019, 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 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the

proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application for Identification Card.

OMB Number: 1651-0008.

Form Number: CBP Form 3078.

Current Actions: BP proposes to extend the expiration date of this information collection with no change to the estimated burden hours or to CBP Form 3078.

Type of Review: Extension (without change).

Abstract: CBP Form 3078, *Application for Identification Card*, is filled out in order to obtain an Identification Card which is used to gain access to CBP security areas. This form collects biographical information and is usually completed by licensed Cartmen or Lightermen whose duties require receiving, transporting, or otherwise handling imported merchandise which has not been released from CBP custody. This form is submitted to the local CBP office at the port of entry that the respondent will be requesting access to the Federal Inspection Section. Form 3078 is authorized by 19 U.S.C. 66, 1551, 1555, 1565, 1624, 1641; and 19 CFR 112.41, 112.42, 118, and 122.182. This form is accessible at: <https://www.cbp.gov/newsroom/publications/forms?title=3078&=Apply>.

Affected Public: Businesses.

Estimated Number of Respondents: 150,000.

Estimated Number of Total Annual Responses: 150,000.

Estimated Time per Response: 17 minutes.

Estimated Total Annual Burden Hours: 42,450.

Dated: October 16, 2019.

SETH RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, October 21, 2019 (84 FR 56196)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Arrival and Departure Record (Forms I-94, I-94W) and Electronic System for Travel and Authorization (ESTA)

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

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

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than November 20, 2019) 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 *dhsdeskofficer@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 41727) on August 15, 2019, 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 1320.8. Written comments and suggestions from the public and affected agencies should

address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Arrival and Departure Record, Nonimmigrant Visa Waiver Arrival/ Departure, Electronic System for Travel Authorization (ESTA).

OMB Number: 1651-0111.

Form Number: CBP Forms I-94 and I-94W.

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

Type of Review: Extension (with no change).

Abstract: Forms I-94 (Arrival/Departure Record) and I-94W (Nonimmigrant Visa Waiver Arrival/ Departure Record) are used to document a traveler's admission into the United States. These forms are filled out by aliens and are used to collect information on citizenship, residency, passport, and contact information. The data elements collected on these forms enable the Department of Homeland Security (DHS) to perform its mission related to the screening of alien visitors for potential risks to national security and the determination of admissibility to the United States. The Electronic System for Travel Authorization (ESTA) applies to aliens seeking to travel to the United States under the Visa Waiver Program (VWP) and requires that VWP travelers provide information electronically to CBP before embarking on travel to the United States without a visa. Travelers who are entering the United States under the VWP in the air or sea environment, and who have a travel authorization obtained through ESTA, are not required to complete the paper Form I-94W. I-94 is provided for by 8 CFR 235.1(h), ESTA is provided for by 8 CFR 217.5.

Recent Changes

On November 27, 2017, the Secretary of State designated DPRK, as a State Sponsor of Terrorism, or SST. Countries determined by the Secretary of State “to have repeatedly provided support for acts of international terrorism” are considered to have been designated as “state sponsors of terrorism.”

Section 217(a)(12)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. 1187(a)(12)(A)(i) bars from travel under the Visa Waiver Program (VWP) nationals of VWP program countries who have “been present, at any time on or after March 1, 2011,” . . . “in a country that is designated by the Secretary of State” as a SST.

To meet the requirements and intent of the law and to keep ESTA and Form I-94W aligned, DHS is strengthening the security of the United States through enhancements to the ESTA application, and Form I-94W. Existing questions that request information from applicants/enrollees about countries to which they have traveled on or after March 1, 2011; countries of which they are citizens/nationals; and countries for which they hold passports are being revised to include, the DPRK.

Under the Emergency Clearance request process DHS has recently added DPRK to the following question to ESTA and Form I-94W (no change has been made to Form I-94): “Have you traveled to, or been present in Iran, Iraq, Syria, Sudan, Libya, Somalia, Yemen, or the Democratic People’s Republic of Korea (North Korea) on or after March 1, 2011? If yes, provide the country, date(s) of travel, and reason for travel.”

Form I-94 (Arrival and Departure Record)

Estimated Number of Respondents: 4,387,550.

Estimated Time per Response: 8 minutes.

Estimated Burden Hours: 583,544.

Estimated Annual Cost to Public: \$26,325,300.

I-94 Website

Estimated Number of Respondents: 3,858,782.

Estimated Time per Response: 4 minutes.

Estimated Annual Burden Hours: 254,679.

Form I-94W (Nonimmigrant Visa Waiver Arrival/Departure)

Estimated Number of Respondents: 941,291.

Estimated Time per Response: 16 minutes.

Estimated Annual Burden Hours: 251,325.

Estimated Annual Cost to the Public: \$5,647,746.

Electronic System for Travel Authorization (ESTA)

Estimated Number of Respondents: 23,010,000.

Estimated Time per Response: 23 minutes.

Estimated Total Annual Burden Hours: 8,812,830.

Estimated Annual Cost to the Public: \$265,020,000.

Dated: October 16, 2019.

SETH D. RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, October 21, 2019 (84 FR 56195)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Electronic Visa Update System

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

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

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than November 20, 2019) 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 todhsdeskofficer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 41729) on August 15, 2019, 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 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the

proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Electronic Visa Update System.

OMB Number: 1651-0139.

Form Number: N/A.

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

Type of Review: Extension (with no change).

Abstract: The Electronic Visa Update System (EVUS) allows for the collection of biographic and other information from nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category. Nonimmigrant aliens subject to this requirement must periodically enroll in EVUS and obtain a notification of compliance with EVUS prior to travel to the United States. The EVUS requirement is currently limited to nonimmigrant aliens holding unrestricted, maximum validity B-1 (business visitor), B-2 (visitor for pleasure), or combination B-1/B-2 visas contained in a passport issued by the People's Republic of China.

EVUS provides for greater efficiencies in the screening of international travelers by allowing DHS to identify nonimmigrant aliens who may be inadmissible before they depart for the United States, thereby increasing security and reducing traveler delays upon arrival at U.S. ports of entry. EVUS aids DHS in facilitating legitimate travel while also enhancing public safety and national security.

Recent Changes

On November 27, 2017, the Secretary of State designated DPRK, as a State Sponsor of Terrorism, or SST. Countries determined by the

Secretary of State “to have repeatedly provided support for acts of international terrorism” are considered to have been designated as “state sponsors of terrorism.”

To meet the requirements and intent of the law and in light of the designation of DPRK as a SST, DHS is strengthening the security of the United States through enhancements to the EVUS enrollment.

Under the Emergency Clearance request process DHS has recently added DPRK to the following question to EVUS “Have you traveled to, or been present in Iran, Iraq, Syria, Sudan, Libya, Somalia, Yemen, or the Democratic People’s Republic of Korea (North Korea) on or after March 1, 2011? If yes, provide the country, date(s) of travel, and reason for travel.”

Estimated Number of Respondents: 3,595,904.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 3,595,904.

Estimated Time per Response: 25 minutes.

Estimated Total Annual Burden Hours: 1,499,492.

SETH D. RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, October 21, 2019 (84 FR 56197)]

