

U.S. Customs and Border Protection



PROPOSED REVOCATION OF TWO RULING LETTERS AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF BATTERY-OPERATED FOOD MILLS

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

ACTION: Notice of proposed revocation of two ruling letters and proposed revocation of treatment relating to the tariff classification of battery-operated food mills.

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 revoke two ruling letters concerning the tariff classification of battery-operated food mills 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 July 17, 2020.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Cammy Canedo, Regulations and Disclosure Law Division, 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 Ms. Cammy Canedo at (202) 325–0439.

FOR FURTHER INFORMATION CONTACT: Suzanne Kingsbury, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0113 or via email at suzanne.kingsbury@cbp.dhs.gov.

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 revoke two ruling letters pertaining to the tariff classification of battery-operated food mills. Although in this notice CBP is specifically referring to New York Ruling Letter ("NY") N254846, dated July 9, 2014 (Attachment "A"), and NY N254844, dated July 22, 2014 (Attachment "B"), 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 one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during 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 N254846 and NY N254844, CBP classified two styles of battery-operated salt and pepper mills (grinders) in heading 8210, HTSUS, specifically in subheading 8210.00.00, HTSUS, which provides for "[H]and-operated mechanical appliances, weighting 10 kg or less, used in the preparation, conditioning or serving of food or drink,

and base metal parts thereof.” CBP has reviewed NY N254846 and NY N254844 and has determined the ruling letters to be in error. It is now CBP’s position that battery-operated food mills are properly classified in heading 8509, HTSUS, specifically in subheading 8509.40.00, HTSUS, which provides for “[E]lectromechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508; parts thereof: Food grinders, processors and mixers; fruit or vegetable juice extractors.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N254846 and NY N254844 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H257788, set forth as Attachment “C” 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.

GREGORY CONNOR
for

CRAIG T. CLARK,
Director

Commercial and Trade Facilitation Division

Attachments

N254846

July 9, 2014

CLA-2-82:OT:RR:NC:N4:110

CATEGORY: Classification

TARIFF NO.: 8210.00.0000

Ms. MARTA PORTILLO

HSN

1 HSN DRIVE

ST. PETERSBURG, FL 33729

RE: The tariff classification of salt and pepper mills from China

DEAR Ms. PORTILLO:

In your letter dated June 23, 2014, you requested a tariff classification ruling. A sample was submitted and will be returned to you.

The HSN Item Number 277326 is identified as the "Wolfgang Puck Stainless Steel Battery Operated Mill." The set includes a salt and a pepper shaker. The items have a tubular-shaped housing made of brushed stainless steel and contain a stainless steel grinder. The shakers measure approximately 2 inches in diameter and 9 inches in height. The top of the shakers have a push-button for grinding. The set is packaged together for retail sale.

The applicable subheading for HSN Item Number 277326 will be 8210.00.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for hand-operated mechanical appliances, weighting 10 kg or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof. The rate of duty will be 3.7 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/>.

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 Hope Abada at hope.abada@cbp.dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER

*Director**National Commodity Specialist Division*

N254844

July 22, 2014

CLA-2-82:OT:RR:NC:N4:110

CATEGORY: Classification

TARIFF NO.: 8210.00.0000

Ms. MARTA PORTILLO

HSN

1 HSN DRIVE

ST. PETERSBURG, FL 33729

RE: The tariff classification of a salt and pepper mill from China

DEAR Ms. PORTILLO:

In your letter dated June 23, 2014, you requested a tariff classification ruling. A representative sample of the mill was submitted and will be returned to you.

The sample is described as the Wolfgang Puck Stainless Steel Battery Powered Mill, Vendor Item Number I-MTSPGMILL-B. The mill measures approximately 7 inches tall, 2.25 inches in diameter at the top, and 3 inches in diameter at the bottom. The housing has a clear plastic section for holding the salt and pepper. The top of the housing has two push-buttons for dispensing salt or pepper. The buttons are marked with the letters "S" for salt, and "P" for pepper. The mill is operated by six "AAA" batteries, which are included. The item features a ceramic blade for grinding. The mill contains Himalayan salt and 5 blends of peppercorns.

The applicable subheading for the Wolfgang Puck Stainless Steel Battery Powered Mill, Vendor Item Number I-MTSPGMILL-B will be 8210.00.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for hand-operated mechanical appliances, weighing 10 kg or less, used in the preparation, conditioning or serving of food or drink. The rate of duty will be 3.7 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/>.

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 Hope Abada at hope.abada@cbp.dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER

Director

National Commodity Specialist Division

HQ H257788
OT:RR:CTF:EMAIN H257788 SK
CATEGORY: Classification
TARIFF NO.: 8509.40.00

Ms. MARTA PORTILLO
HSN

1 HSN DRIVE

ST. PETERSBURG, FL 33729

RE: Revocation of NY N254846 (7/9/14) and NY N254844 (7/22/14); battery-operated food mill; electric salt and pepper grinder.

DEAR Ms. PORTILLO:

This letter is in response to HSN's July 30, 2014 request for reconsideration of New York Ruling Letter (NY) N254846, dated July 9, 2014, and NY N254844, dated July 22, 2014, concerning the classification of battery-operated condiment mills in heading 8210 of the Harmonized Tariff Schedule of the United States (HTSUS), specifically subheading 8210.00.00, HTSUS, which provides for "[H]and-operated mechanical appliances, weighting 10 kg or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof."

Upon reconsideration we have determined that the tariff classification of the subject merchandise at issue in NY N254846 and NY N254844 is incorrect. Pursuant to the analysis set forth below, CBP is revoking both rulings.

FACTS:

The merchandise at issue in NY N254846, identified as Item Number 277326, is described as the "Wolfgang Puck Stainless Steel Battery Operated Mill." The article is comprised of electric salt and pepper grinders packaged together as a set for retail sale. The items have a tubular-shaped housing made of brushed stainless steel and contain a stainless steel grinder. The articles measure approximately 2 inches in diameter and 9 inches in height. The top of the shakers have a push-button to activate grinding.

The merchandise at issue in NY N254844, identified as Item Number I-MTSPGMILL-B, is described as the "Wolfgang Puck Stainless Steel Battery Powered Mill." The article measures approximately 7 inches tall, 2.25 inches in diameter at the top, and 3 inches in diameter at the bottom. The housing has a clear plastic section for holding salt and pepper. The top of the housing has two push-buttons for dispensing salt or pepper. The buttons are marked with the letters "S" for salt, and "P" for pepper. The mill is operated by six "AAA" batteries, which are included. The item features a ceramic blade for grinding. The mill contains Himalayan salt and 5 blends of peppercorns.

LAW AND ANALYSIS:

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

The following HTSUS headings are under consideration:

- 8210 Hand-operated mechanical appliances, weighting 10 kg or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof.
- 8509 Electromechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508; parts thereof.

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

The ENs to heading 8210, HTSUS, state, in pertinent part:

This heading covers **non-electric** mechanical appliances, generally hand-operated, not exceeding 10 kg in weight, used in the preparation, serving or conditioning of food or drink.

* * * * *

The ENs to heading 8509, HTSUS, state, in pertinent part:

This heading covers a number of domestic appliances in which an electric motor is **incorporated**. The term “domestic appliances” in this heading means appliances normally used in the household. These appliances are identifiable, according to type, by one or more characteristic features such as overall dimensions, design, capacity, volume. The yardstick for judging these characteristics is that the appliances in question must not operate at a level in excess of household requirements.

* * *

The appliances of this heading are of two groups (see Chapter Note 4):

(A) **A limited class of articles are classified here irrespective of their weight.**

This group consists of the following only:

* * *

(2) **Food grinders and mixers**, e.g., grinders for meat, fish, vegetables or fruit; multi-purpose grinders (for coffee, rice, barley, split peas, etc.); milk shakers; ice cream mixers; sorbet mixers; dough kneaders; mayonnaise beaters; other similar grinders and mixers (including those which, by means of interchangeable parts, can also be used for cutting or other manipulations).

* * * * *

In NY N254846 and NY N254844, CBP classified two styles of battery-operated salt and pepper mills (grinders) under subheading 8210.00.00, HTSUS, which provides for “[H]and-operated mechanical appliances, weighting 10 kg or less, used in the preparation, conditioning or serving of food or drink, and base metal parts thereof.” However, the text of heading 8210, HTSUS, requires that merchandise covered by the provision be “hand-operated” and “mechanical”. Furthermore, EN 82.10 clarifies that the legal text covers only “non-electric” mechanical appliances. Accordingly, the subject battery-operated mills are precluded from classification in this heading.

The subject battery-operated mills in NY N254846 and NY N254844 are household electromechanical appliances and covered by heading 8509, HTSUS. Specifically, the subject articles are classified in subheading 8509.40.00, HTSUS, which provides for [E]lectromechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508; parts thereof: Food grinders, processors and mixers; fruit or vegetable juice extractors.”

HOLDING:

By application of GRIs 1 and 6, the subject battery-operated mills at issue in NY N254846 and NY N254844 are classified under heading 8509, HTSUS, specifically under subheading 8509.40.00, HTSUS, which provides for “[E]lectromechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 8508; parts thereof: Food grinders, processors and mixers; fruit or vegetable juice extractors.” The applicable rate of duty is 4.2 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.us-itc.gov.

EFFECT ON OTHER RULINGS:

NY N254846, dated July 9, 2014, and NY N254844, dated July 22, 2014, are hereby REVOKED.

Sincerely,

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division

PROPOSED REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO COUNTRY OF ORIGIN OF REVERSIBLE COMFORTERS

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

ACTION: Notice of proposed revocation of one ruling letter, and revocation of treatment relating to the country of origin of reversible comforters.

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 revoke one ruling letter concerning the country of origin of reversible comforters. 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 July 17, 2020.

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 Ms. Cammy Canedo at (202) 325–0439.

FOR FURTHER INFORMATION CONTACT: Tanya Secor, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0062.

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 revoke one ruling letter pertaining to the country of origin of reversible comforters. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N306605, dated October 25, 2019 (Attachment A), 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 one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during 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 N306605, the fabric comprising one side of the reversible comforters is dyed while the fabric comprising the reverse side is printed. CBP determined India to be the country of origin of the reversible comforters by application of 19 C.F.R. §102.21(e)(2)(i). CBP has reviewed NY N306605 and has determined the ruling letter to be in error. Because the fabric is either dyed or printed, not both, 19 C.F.R. §102.21(e)(2)(i) is inapplicable. Pursuant to 19 C.F.R. § 102.21(c)(2) and (e)(2)(ii), the country of origin is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process. As the fabric comprising the subject comforters is manufactured in China, it is now CBP’s position that the country of origin of the reversible comforters is China.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N306605 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H309368, set forth as Attachment B 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.

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

Attachments

N306605

October 25, 2019

CLA-2-94:OT:RR:NC:N4:463

CATEGORY: Country of Origin

TARIFF NO.: 9404.90.8522

DOLORES HUNT
KEECO, LLC.
30736 WIEGMAN ROAD
HAYWARD, CA 94544

RE: The country of origin of reversible polyester comforters.

DEAR Ms. HUNT:

In your letter dated October 8, 2019, you requested a country of origin ruling on reversible, dyed and printed 100% polyester comforters. You provided product and material descriptions and explained where the requisite manufacturing operations will be performed. No samples were provided.

Per your submission, the comforters, subject of this ruling, contain no embroidery, lace, braid, edging, trimming, piping exceeding 6.35 mm or applique work.

The comforters, in Twin, Queen and King sizes (65" x 88", 86" x 102", and 104" x 93", respectively), are made of a 100% polyester woven fabric and filled with 100% polyester batting. The fabric comprising one side of the comforter has been printed and comprising the reverse has been dyed.

MANUFACTURING OPERATIONS

The 100% polyester greige fabric comprising both sides of the comforter shell is woven in China and shipped to India where a portion of it will be dyed and submitted to the following operations:

- a. Batching
- b. Peaching (napping process)
- c. Bleaching
- d. Dyeing
- e. Hydrowashing
- f. Finishing-heat setting to stabilize fabric weight and width (shrinking)

An equal portion of the fabric will be printed and subject to the following operations:

- a. Batching
- b. Peaching (napping process)
- c. Bleaching
- d. Heat setting (shrinking process to control shrinkage after finishing)
- e. Disperse Printing
- f. High temperature steaming
- g. Washing
- h. Finishing

Subsequent to fabric dyeing, printing and finishing operations, the dyed fabric will be cut to size and sewn to make one side of the comforter shell and the printed fabric will be cut to size and sewn to make the other. The comforter will then be filled with 100% polyester fill batting of Indian origin and sewn closed.

CLASSIFICATION

A country of origin ruling cannot be issued on a textile article without first determining the classification. Classification under the Harmonized Tariff Schedule of the United States (HTSUS) is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule, and any relative section or chapter notes (together known as legal notes). In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

This office concurs with the requester that the comforters, as described herein, are provided for in 9404.90.8522, HTSUS, which provides for “Mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered: Other: Other: Other: Quilts, eiderdowns, comforters and similar articles: With outer shell of man-made fibers (666).” The rate of duty will be 12.8% ad valorem.

COUNTRY OF ORIGIN

Section 334 of the Uruguay Round Agreements Act (codified at 19 U.S.C. 3592), enacted on December 8, 1994, provided rules of origin for textiles and apparel entered, or withdrawn from warehouse for consumption, on and after July 1, 1996. Section 102.21, Customs Regulations (19 C.F.R. 102.21), published September 5, 1995, in the Federal Register, implements Section 334 (60 FR 46188). Section 334 of the URAA was amended by Section 405 of the Trade and Development Act of 2000, enacted on May 18, 2000, and accordingly, section 102.21 was amended (68 Fed. Reg. 8711). Thus, the country of origin of a textile or apparel product shall be determined by the sequential application of the general rules set forth in paragraphs (c)(1) through (5) of Section 102.21.

Paragraph (c)(1) states: “The country of origin of a textile or apparel product is the single country, territory, or insular possession in which the good was wholly obtained or produced.” As the subject merchandise is not wholly obtained or produced in a single country, territory or insular possession, paragraph (c)(1) of Section 102.21 is inapplicable.

Paragraph (c)(2) states: “Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1) of this section, the country of origin of the good is the single country, territory, or insular possession in which each of the foreign materials incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement specified for the good in paragraph (e) of this section.”

Paragraph (e)(1) states, in its pertinent part:

The following rules will apply for purposes of determining the country of origin of a textile or apparel product under paragraph (c)(2) of this section:

9404.90: Except for goods of subheading 9404.90 provided for in paragraph (e)(2) of this section, the country of origin of a good classifiable under subheading 9404.90 is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process.

Paragraph (e)(2) provides, in relevant part, that for goods of subheading 9404.90.85 (the applicable classification)... the country of origin is the country “in which the fabric comprising the good was both dyed and printed” and at least two of the identified finishing operations occur.

Here, “the fabric comprising the good” is the 100% polyester greige fabric. One side of the comforter shell will be made of fabric that was dyed and underwent bleaching, napping and shrinking in India, which fulfills the two or more specific finishing operations requirement. The reverse side of the comforter shell will be made of fabric that was printed and underwent bleaching, napping and shrinking in India, which also fulfills the two or more specific finishing operations requirement. Therefore, the country of origin of the comforter will be India, the country in which the fabric comprising the good was dyed and printed and underwent two or more of the required finishing operations.

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 <https://hts.usitc.gov/current>.

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

The holding set forth above applies only to the specific factual situation and merchandise description as identified in the ruling request. This position is clearly set forth in 19 CFR 177.9(b)(1). This section states that a ruling letter is issued on the assumption that all of the information furnished in connection with the ruling request and incorporated therein, either directly, by reference, or by implication, is accurate and complete in every material respect.

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 Seth Mazze at seth.mazze@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

HQ H309368
OT:RR:CTF:FTM H309368 TJS
CATEGORY: Origin

Ms. DOLORES HUNT
KEECO, LLC
30736 WIEGMAN ROAD
HAYWARD, CA 94544

RE: Reconsideration of NY N306605; Country of Origin of Reversible Polyester Comforters.

DEAR Ms. HUNT,

This is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York Ruling Letter (“NY”) N306605, issued to you on October 25, 2019, regarding the country of origin of certain reversible polyester comforters. In that ruling, CBP determined the country of origin to be India. We have reviewed NY N306605 and determined that it is incorrect. For the reasons stated below, we hereby revoke NY N306605.

FACTS:

The merchandise at issue is reversible, dyed and printed 100% polyester comforters. The comforters contain no embroidery, lace, braid, edging, trimming, piping exceeding 6.35 mm or applique work. The comforters, in Twin, Queen and King sizes (65” x 88”, 86” x 102”, and 104” x 93”, respectively), are made of a 100% polyester woven fabric and filled with 100% polyester batting. The fabric comprising one side of the comforter has been printed and the fabric comprising the reverse has been dyed.

NY N306605 described the manufacturing operations as follows:

The 100% polyester greige fabric comprising both sides of the comforter shell is woven in China and shipped to India where a portion of it will be dyed and submitted to the following operations:

- a. Batching
- b. Peaching (napping process)
- c. Bleaching
- d. Dyeing
- e. Hydrowashing
- f. Finishing-heat setting to stabilize fabric weight and width (shrinking)

An equal portion of the fabric will be printed and subject to the following operations:

- a. Batching
- b. Peaching (napping process)
- c. Bleaching
- d. Heat setting (shrinking process to control shrinkage after finishing)
- e. Disperse Printing
- f. High temperature steaming
- g. Washing
- h. Finishing

Subsequent to fabric dyeing, printing and finishing operations, the dyed fabric will be cut to size and sewn to make one side of the comforter shell and the printed fabric will be cut to size and sewn to make the other. The comforter will then be filled with 100% polyester fill batting of Indian origin and sewn closed.

The subject comforters are classified in subheading 9404.90.8522 of the Harmonized Tariff Schedule of the United States Annotated (“HTSUSA”), which provides for “Mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered: Other: Other: Other: Quilts, eiderdowns, comforters and similar articles: With outer shell of man-made fibers (666).”

ISSUE:

What is the country of origin for marking purposes of the reversible polyester comforters?

LAW AND ANALYSIS:

Section 334 of the Uruguay Round Agreements Act, codified at 19 U.S.C. § 3592, provides rules of origin for textiles and apparel entered, or withdrawn from warehouse, for consumption, on and after July 1, 1996. 19 C.F.R. § 102.21 implements section 334, and 19 C.F.R. § 102.0 refers to 19 C.F.R. § 102.21 for determining the country of origin of textile and apparel products. Pursuant to 19 C.F.R. § 102.21(c), the country of origin of a textile or apparel product will be determined by sequential application of the general rules set forth in paragraphs (c)(1) through (5).

Section 102.21(c)(1) provides that “the country of origin of a textile or apparel product is the single country, territory, or insular possession in which the good was wholly obtained or produced.” As the subject comforters are not wholly obtained or produced in a single country, territory, or insular possession, paragraph (c)(1) is inapplicable.

Paragraph (c)(2) provides, “Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1) of this section, the country of origin of the good is the single country, territory, or insular possession in which each of the foreign materials incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement, specified for the good in paragraph (e) of this section:”

The applicable subheading for the subject comforters is 9404.90.8522, HTSUSA. Section 102.21(e)(1) in pertinent part provides, “The following rules will apply for purposes of determining the country of origin of a textile or apparel product under paragraph (c)(2) of this section:”

HTSUS	Tariff shift and/or other requirements
9404.90	Except for goods of subheading 9404.90 provided for in paragraph (e)(2) of this section, the country of origin of a good classifiable under subheading 9404.90 is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process.

Subheading 9404.90.85, HTSUS, is included in the paragraph (e)(2) exception to the above tariff shift rule. 19 C.F.R. § 102.21(e)(2)(i) provides:

- (i) The country of origin of the good is the country, territory, or insular possession in which the fabric comprising the good was both dyed and printed when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decatizing, permanent stiffening, weighting, permanent embossing, or moireing;

It has been a longstanding CBP position that the fabric comprising the good must be both dyed and printed for § 102.21(e)(2)(i) to apply. *See* Headquarters Ruling Letter (“HQ”) H304571 (Jan. 6, 2020); NY J89052 (Oct. 31, 2003); NY I81934 (June 4, 2002); NY H81451; (June 18, 2001); *and* NY H81279 (June 4, 2001). For example, in HQ H304571, CBP determined the country of origin of certain stuffed mattress covers classified in subheading 9404.90.95, HTSUS, which is included in the paragraph (e)(2) exception. The fabric comprising the mattress covers was formed in the United States, China, and/or Mexico and was cut, sewn, and assembled into the finished products in El Salvador. CBP found that paragraph (e)(2)(i) was inapplicable because the fabric comprising the covers were dyed but not printed. NY J89052 concerned the country of origin of a bed sheet set consisting of a flat sheet, fitted sheet, and one or two pillowcases. In that ruling, CBP considered two manufacturing scenarios: in Scenario 1, the sets were printed and not dyed while the sets in Scenario 2 were both printed and dyed. Under both scenarios, the fabric comprising the goods was woven in Country A and shipped to Tanzania where it was subject to singeing, scouring, bleaching, drying, printing, curing, shrinking, stiffening and finishing. Under Scenario 2, the dyeing would also occur in Tanzania. The fabric was then cut to size and shape and the components were sewn together to form the finished sheets and pillowcases. CBP determined that, as the sheet sets under Scenario 2 were both dyed and printed and subject to two or more finishing operations in Tanzania, as per the terms of the tariff shift requirement, the country of origin of the sheet sets was conferred in Tanzania. Conversely, CBP held that paragraph (e)(2)(i) was not applicable to the sheet sets in Scenario 1 as the fabric comprising the sets were not both dyed and printed. NY H81279 concerned two woven fabrics composed of 97% cotton and 3% spandex, designated as styles C-0138 and C-0156. Each fabric was woven in Tajikistan and shipped to China where the fabric for style C-0138 was bleached, dyed and finished including drying and the fabric for style C-0156 was bleached, printed, washed, and finished including tentering. CBP determined that because both fabrics were formed by a fabric forming process in a single country, and neither fabric was both dyed and printed in China, as per the terms of the tariff shift requirement, country of origin was conferred in Tajikistan.

Therefore, paragraph (e)(2)(i) applies when the fabric comprising the good is both dyed and printed. In India, the fabric comprising one side of the subject comforters is dyed while the fabric comprising the reverse side is printed. Here, the dyeing and printing are mutually exclusive processes. Because the fabric is either dyed or printed, not both, paragraph (e)(2)(i) is inapplicable.

Paragraph (e)(2)(ii) provides, “If the country of origin cannot be determined under paragraph (e)(2)(i) of this section, [. . .] the country of origin is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process.” As the fabric comprising the subject comforters is manufactured in China, the country of origin is China.

HOLDING:

The country of origin for marking purposes of the reversible polyester comforters is China.

EFFECT ON OTHER RULINGS:

NY N306605, dated October 25, 2019, is hereby **REVOKED** in accordance with the above analysis.

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

Sincerely,

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division

**PROPOSED MODIFICATION OF ONE RULING LETTER
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF KLUBER
MICROLUBE GB 0**

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

ACTION: Notice of proposed modification of one ruling letter and proposed revocation of treatment relating to the tariff classification of Kluber Microlube GB 0.

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 one ruling letter concerning tariff classification of Kluber Microlube GB 0 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 July 17, 2020.

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 Mrs. Cammy Canedo at (202) 325-0439.

FOR FURTHER INFORMATION CONTACT: Andrew Levey, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325-3298.

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 responsibil-

ity 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 one ruling letter pertaining to the tariff classification of Kluber Microlube GB 0. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N237898, dated February 28, 2013 (Attachment A), 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 one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during 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 N237898, CBP classified Kluber Microlube GB 0 in heading 2710, HTSUS, specifically in subheading 2710.19.4000, HTSUS, which provides for “other... lubricating grease.” CBP has reviewed NY 237898 and has determined the ruling letter to be in error. It is now CBP’s position that Kluber Microlube GB 0 is properly classified, in heading 2710, HTSUS, specifically in subheading 2710.19.3500, HTSUS, which provides for ““other: Lubricating oils and greases, with or without additives: Greases: Containing not over 10 percent by weight of salts or fatty acids of animal (including marine animal) or vegetable origin.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to modify NY N237898 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H289346, set forth as Attachment A 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: May 15, 2020

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

Attachments

HQ H289346
OT:RR:CTF:CPMM H289346 ABL
CATEGORY: Classification
TARIFF NO.: 2710.19.3500

VALERIE HOLTROP
WORLDWIDE LOGISTIC SOLUTIONS LLC
18 GOLDEN WHEAT LANE
WRIGHTSTOWN, WI 54180

RE: Modification of N237898; Classification of “Kluber Microlube GB 0.”

DEAR Ms. HOLTROP,

This is in reference to the New York Ruling Letter (NY) N237898, issued to you by U.S. Customs and Border Protection (CBP) on February 28, 2013, concerning the classification of certain mineral oil-based greases and Kluber Microlube GB 0 under the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed this ruling, and determined it is incorrect, with respect to the classification of the Kluber Mircolube GB 0 under subheading 2710.19.40, HTSUS, the provision for other lubricating grease. For the reasons set forth below, we are modifying the ruling.

FACTS:

The merchandise in NY N237898 consists of a product called “Kluber Microlube GB 0.” This product is a mineral oil-based grease containing zinc and silica additives. The “Kluber Microlube GB 0” mineral oil based lubricant is described by the importer as a universal high-performance grease developed for friction points subject to high loads and mixed friction conditions. Lastly, the Material Safety Data Sheet (MSDS) does not mention any animal or plant based components.

ISSUE:

Whether the subject merchandise consisting of “Kluber Microlube GB 0” should be classified in subheading subheading 2710.19.3500, as “other: Lubricating oils and greases, with or without additives: Greases: Containing not over 10 percent by weight of salts or fatty acids of animal (including marine animal) or vegetable origin”, or remain in 2710.19.4000, HTSUS, as “other... lubricating grease.”

LAW AND ANALYSIS:

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

The 2019 HTSUS provisions under consideration are as follows:

* * * * *

2710 Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 percent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils:

Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70 percent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than those containing biodiesel and other than waste oils:

2710.19 Other:

2710.19.3500 Containing not over 10 percent by weight of salts of fatty acids of Animal (including marine animal) or vegetable origin

2710.19.4000 Other:

* * * * *

The merchandise in New York ruling N237898, contains no animal or plant based components, nor salts of fatty acids of animal or vegetable origin. Because there is no indication that the Kluber product contains salts of fatty acids, the classification of the instant merchandise in 2710.19.4000, HTSUS, is incorrect. Moreover, sub-heading 2710.19.3500, HTSUS is an appropriate subheading for “Kluber Microlube GB 0” because the silica is entirely based on mineral oil, and as such, contains no salts of fatty acids of animal or plant origin. In conclusion, because the instant merchandise does not contain any salts of fatty acids of animal or plant origin, classification in subheading 2710.19.4000, which covers greases containing over 10 percent by weight of such salts, is incorrect. Therefore, N237898 is modified to reflect that Kluber Microlube is classified in subheading 2710.19.3500, HTSUS.

HOLDING:

The “Kluber Microlube GB 0” is classified in subheading 2710.19.3500, HTSUS, as [c]ontaining not over 10 percent by weight of salts of fatty acids of animal (including marine animal) or vegetable origin. The general, column 1 rate of duty for subheadings 2710.19.3500, HTSUS, is 5.8%.

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

A copy of this ruling letter should be attached to the entry documents filed at the time the goods are to be entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the CBP officer handling the transaction.

EFFECT ON OTHER RULINGS

New York Ruling letter N237898, dated February 28, 2013 is hereby MODIFIED in accordance with the above analysis.

Sincerely,

CRAIG T. CLARK,
Director

Commercial and Trade Facilitation Division

N237898

February 28, 2013

CLA-2-84:OT:RR:NC:1:102

CATEGORY: Classification

TARIFF NO.: 8483.90.5000; 5911.90.0080;

8479.89.9899; 2710.19.4000

MS. VALERIE HOLTROP
WORLDWIDE LOGISTIC SOLUTIONS LLC
18 GOLDEN WHEAT LANE
WRIGHTSTOWN, WI 54180

RE: The tariff classification of linear drive system components from Germany.

DEAR MS. HOLTROP:

In your letter dated January 21, 2013, on behalf of Wittenstein Arena Inc., you requested a tariff classification ruling. Descriptive literature was submitted with your request.

The products to be imported are various components for rack and pinion linear drive systems: class rack, pinion gear, mounting axis, lubricating pinion and exchange lubrication. You state that these parts will be imported separately for assembly, replacement and/or repair and are used in various industrial applications.

Measuring one meter in length, the class rack (gear rack) is designed to mesh with the pinion gear to create linear motion. The mounting axis is described as a shaft used to mount the lubricating pinion. This shaft has drill holes which allow grease to be transferred from the exchange lubrication tube to the wool felt lubricating pinion, a gear which in turn transfers lubrication to the gear rack or a pinion.

The applicable subheading for the class rack, the pinion gear and the mounting axis will be 8483.90.5000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for transmission shafts (including camshafts and crankshafts) and cranks; bearing housings, housed bearings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints); parts thereof, toothed wheels, chain sprockets and other transmission elements presented separately ; parts, parts of gearing, gear boxes and other speed changers. The rate of duty will be 2.5 percent ad valorem.

The applicable subheading for the lubrication pinion will be 5911.90.0080, HTSUS, which provides for textile products and articles, for technical uses, specified in note 7 to this chapter, other, other. The rate of duty will be 3.8 percent ad valorem.

The lubricator, also referred to by you as the “exchange lubrication”, is a mechanical device that supplies lubrication points automatically with lubricant. The lubricator is available in two sizes, i.e., Type 125 and Type 475. The grease cup is connected by a plastic hose to a felt pinion/lubrication point. When the lubricator is switched on, an electro-chemical reaction is initiated by the closing of contacts. Pressure is increased in the nitrogen chamber. This pressure fills a bellows which pushes against a piston that in turn pushes out the lubricant. The lubricant is emitted automatically for a specified period while conforming to permitted specifications. Each unit requires two AA (Varta 1.5 V AA Alkaline long life) batteries. Batteries are pre-installed in all lubricators.

Submitted data states that all lubricators are prefilled with grease at the factory in Germany. The Klüber MICROLUBE GB 0 mineral oil based lubricant is a universal high-performance grease developed for friction points subject to high loads and mixed friction conditions.

The applicable subheading for the lubricators, Type 125 and Type 475, will be 8479.89.9899, HTSUS, which provides for “Machines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter, parts thereof: Other machines and mechanical appliances: Other: Other ... Other”. The rate of duty will be 2.5 percent ad valorem.

The applicable subheading for the Klüber MICROLUBE GB 0 mineral oil based lubricant will be 2710.19.4000, HTSUS, which provides for “Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 percent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils: Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70 percent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than those containing biodiesel and other than waste oils: ... Lubricating oils and greases, with or without additives: Greases: Other”. The rate of duty will be 1.3 cents per kilogram plus 5.7 percent ad valorem.

This merchandise may be subject to the requirements of the Toxic Substances Control Act (TSCA), administered by the U.S. Environmental Protection Agency. You may contact them at 402 M Street, S.W., Washington, D.C. 20460, telephone number (202) 554-1404, or at EPA Region II telephone number (908) 321-6669.

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 the National Import Specialist at (646) 733-3009.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

**COPYRIGHT, TRADEMARK, AND TRADE NAME
RECORDATIONS
(NO. 3 2020)**

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

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in March 2020. A total of 168 recordation applications were approved, consisting of 4 copyrights and 164 trademarks. The last notice was published in the Customs Bulletin Vol. 54, No. 1, March 25, 2020.

Corrections or updates may be sent to: Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street, NE., 10th Floor, Washington, D.C. 20229–1177, or via email at iprrquestions@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT: LaVerne Watkins, Paralegal Specialist, Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade at (202) 325–0095.

CHARLES R. STEUART

Chief,

*Intellectual Property Rights Branch
Regulations and Rulings, Office of Trade*

CBP IPR RECORDATION — JUNE 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 02-00416	05/04/2020	10/24/2030	BREWERS	MILWAUKEE BREWERS BASEBALL CLUB	No
TMK 02-00746	05/27/2020	08/20/2030	FORMSTRIPE DESIGN	PUMA SE	No
TMK 02-00748	05/27/2020	07/28/2030	PUMA STRIPE DESIGN	PUMA SE	No
TMK 02-00777	05/01/2020	07/15/2030	BURBERRY	BURBERRY LIMITED	No
TMK 04-00777	05/29/2020	03/15/2030	SUBARU	SUBARU CORPORATION	No
TMK 05-00751	05/12/2020	10/10/2020	ORIOLES (Stylized)	BALTIMORE ORIOLES LIMITED PART- NERSHIP	No
TMK 06-00412	05/05/2020	08/29/2030	SOX (STYLIZED)	CHICAGO WHITE SOX, LTD.	No
TMK 06-01111	05/28/2020	06/28/2030	LG & DESIGN	LG CORP.	No
TMK 09-00437	05/26/2020	06/28/2030	REMICADE	JANSSEN BIOTECH, INC.	No
TMK 10-00742	05/21/2020	06/21/2030	"THE LITTLE TORCH" (STYLIZED)	ILLINOIS TOOL WORKS, INC.	No
TMK 10-00832	05/07/2020	01/09/2028	3-Bar Stripe Diamond Design	JAWHP, LLC	No
TMK 10-00845	05/07/2020	02/18/2029	JOSEPH ABOUD	JAWHP, LLC	No
TMK 10-01182	05/28/2020	07/11/2030	DESIGN ONLY (TWO HORSE)	LEVI STRAUSS & CO.	No
TMK 10-01191	05/27/2020	07/17/2030	DOCKERS	LEVI STRAUSS & CO.	No
TMK 10-01208	05/27/2020	08/18/2030	STELARA	Johnson & Johnson	No
TMK 11-00239	05/28/2020	06/02/2020	REVAES	BEACHBODY, LLC	No
TMK 11-01018	05/18/2020	09/22/2030	MAXXIMA	Panor Corp.	No
TMK 11-01103	05/18/2020	07/11/2030	PANERAI	OFFICINE PANERAI A.G.	No

CBP IPR RECORDATION — JUNE 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 14-00950	05/13/2020	07/19/2030	Design Only	CARTIER INTERNATIONAL A.G.	No
TMK 15-01219	05/13/2020	07/13/2030	CELGENE PATIENT SUPPORT	Celgene Corporation	No
TMK 16-00847	05/18/2020	07/04/2030	WOLLMAN	ARCH WOOD PROTECTION, INC.	No
TMK 16-01104	05/27/2020	05/27/2030	ELANCE	JOCKEY INTERNATIONAL, INC.	No
TMK 17-00752	05/21/2020	06/30/2030	M & DESIGN	Bayerische Motoren Werke Aktiengesellschaft	No
TMK 18-00671	05/13/2020	04/05/2030	FACEBOOK	Facebook, Inc.	No
TMK 18-00673	05/13/2020	02/24/2030	FACEBOOK	Facebook, Inc.	No
TMK 20-00377	05/01/2020	02/17/2030	DESIGN ONLY (Dunk Low)	Nike, Inc.	No
TMK 20-00378	05/04/2020	08/23/2027	ORIN WAYNE SOLOMON	Solomon, Orin Wayne DBA ORIN WAYNE SOLOMON	No
TMK 20-00379	05/04/2020	03/18/2029	OMNI HEALTH SOLUTION, LTD. and Design	Omni Health Solution, Ltd.	No
TMK 20-00380	05/05/2020	12/18/2028	IFIXIT	iFixit	No
TMK 20-00381	05/06/2020	01/24/2028	CARE ORCHESTRATOR	Koninklijke Philips N.V.	No
TMK 20-00382	05/06/2020	11/06/2023	SIMPLYGO	Koninklijke Philips N.V.	No
TMK 20-00383	05/06/2020	10/28/2029	PERFORMAX	RIC Investments, LLC	No
TMK 20-00384	05/06/2020	02/05/2024	AMARA	Koninklijke Philips N.V.	No
TMK 20-00385	05/06/2020	06/05/2029	DREAMWISP	Koninklijke Philips N.V.	No
TMK 20-00386	05/06/2020	02/15/2026	PERFORMATRAK	RIC Investments, LLC	No

CBP IPR RECORDATION — JUNE 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 20-00387	05/07/2020	10/12/2026	DREAMWEAR	Koninklijke Philips N.V.	No
TMK 20-00388	05/07/2020	06/25/2024	WISP	Koninklijke Philips N.V.	No
TMK 20-00389	05/07/2020	08/25/2023	SIDESTREAM	RESPIRONICS (UK) LTD.	No
TMK 20-00390	05/07/2020	11/26/2024	SIMPLYFLO	Koninklijke Philips N.V.	No
TMK 20-00391	05/07/2020	03/10/2030	MORF	LB Marketing, Inc.	No
TMK 20-00392	05/07/2020	05/11/2024	INNOSPIRE	Koninklijke Philips N.V.	No
TMK 20-00393	05/07/2020	07/11/2026	COUGHASSIST	RIC INVESTMENTS, LLC.	No
TMK 20-00394	05/07/2020	09/13/2026	INCOURAGE	Respiratory Technologies, Inc.	No
TMK 20-00395	05/08/2020	07/24/2028	INCOURAGE & DESIGN	Respiratory Technologies, Inc.	No
TMK 20-00396	05/08/2020	03/17/2023	MILLENNIUM RESPIRONICS	RIC INVESTMENTS, LLC	No
TMK 20-00397	05/08/2020	12/29/2025	ULTRAFILL	Koninklijke Philips N.V.	No
TMK 20-00398	05/08/2020	04/19/2030	SOUR POWER SORTZ	Dorval Trading Co., Ltd.	No
TMK 20-00399	05/11/2020	12/17/2029	KLUS & DESIGN	KLUS, LLC	No
TMK 20-00400	05/11/2020	11/18/2025	The Salty Dog Cafe & Design	Jake Deg, LLC	No
TMK 20-00401	05/11/2020	01/24/2028	D (STYLIZED)	Detroit Tigers, Inc.	No
TMK 20-00402	05/11/2020	04/22/2023	BLACK BROWN 1826 and Design	Lord & Taylor LLC	No
TMK 20-00403	05/11/2020	11/19/2028	LORD & TAYLOR	Lord & Taylor LLC	No
TMK 20-00404	05/12/2020	03/03/2030	Luo Ba Wang and Design	GB Green Gastronomie, LLC	No
TMK 20-00405	05/12/2020	05/04/2030	BOOTY KICKER	SAVIER FITNESS LLC	No
TMK 20-00406	05/12/2020	03/19/2028	SAVIER FITNESS	SAVIER FITNESS LLC	No

CBP IPR RECORDATION — JUNE 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 20-00407	05/12/2020	08/28/2029	Hao Huan Luo and Design	GB Green Gastronomie, LLC	No
TMK 20-00408	05/12/2020	08/28/2029	Dabur Amla and Design Logo	Dabur India Limited	No
TMK 20-00409	05/12/2020	07/14/2030	DESIGN ONLY (Sunglass Trade Dress)	Saule, LLC	No
TMK 20-00410	05/13/2020	02/11/2029	VATIKA	Dabur India Limited	No
TMK 20-00411	05/18/2020	02/02/2031	AXEON	AXEON WATER TECHNOLOGIES	No
TMK 20-00412	05/18/2020	08/29/2028	U-BLOX	u-blox Holding AG	No
TMK 20-00413	05/18/2020	06/17/2030	RCR-FORCE	Off Road Engineering, LLC	No
TMK 20-00414	05/18/2020	10/10/2022	L.F.C. (Stylized) and Design	THE LIVERPOOL FOOTBALL CLUB AND ATHLETIC GROUNDS LIMITED	No
TMK 20-00415	05/18/2020	01/11/2027	PBLX	Lodley Mataele	No
TMK 20-00416	05/18/2020	03/17/2030	WALI DIGITAL	Wali Digital, Inc.	No
TMK 20-00417	05/19/2020	10/24/2022	SANOFI	Sanofi	No
TMK 20-00418	05/20/2020	02/18/2025	DESIGN ONLY (BIRD OF HOPE LOGO)	SANOFI	No
TMK 20-00419	05/20/2020	05/18/2030	SANOFI GENZYME	SANOFI	No
TMK 20-00420	05/20/2020	12/21/2024	ABLYNX	ABLYNX N.V.	No
TMK 20-00421	05/20/2020	03/24/2030	DESIGN ONLY (ABLYNX LOGO)	Ablynx N.V.	No
TMK 20-00422	05/20/2020	01/24/2028	BIOVERATIV	BIOVERATIV THERAPEUTICS INC.	No
TMK 20-00423	05/20/2020	02/21/2028	BIOVERATIV AND DESIGN (LOGO B&W)	Bioverativ Therapeutics Inc.	No
TMK 20-00424	05/20/2020	10/28/2025	KEVZARA	SANOFI BIOTECHNOLOGY	No

CBP IPR RECORDATION — JUNE 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/TmK/TmM	Owner Name	GM Restricted
TMK 20-00425	05/20/2020	01/03/2027	FLUBLOK AND DESIGN	Protein Sciences Corporation	No
TMK 20-00426	05/20/2020	08/02/2026	FLUBLOK	Protein Sciences Corporation	No
TMK 20-00427	05/20/2020	01/22/2030	SARCLISA and Logo Design	Sanofi	No
TMK 20-00428	05/20/2020	08/29/2028	SARCLISA	Sanofi	No
TMK 20-00429	05/20/2020	10/04/2027	DUPIXENT and Logo Design	Sanofi Biotechnology	No
TMK 20-00430	05/20/2020	09/14/2026	DUPIXENT	Sanofi Biotechnology	No
TMK 20-00431	05/20/2020	11/29/2027	KEVZARA and Logo Design	Sanofi Biotechnology	No
TMK 20-00432	05/20/2020	10/09/2022	TENAX	TENAX S.P.A.	No
TMK 20-00433	05/20/2020	08/27/2028	AGER (Stylized)	TENAX S.P.A.	No
TMK 20-00434	05/21/2020	08/19/2030	DESIGN ONLY (AirPods Trade Dress (free floating version))	Apple Inc.	No
TMK 20-00435	05/21/2020	07/14/2030	HURON	Trijicon, Inc.	No
TMK 20-00436	05/21/2020	07/14/2030	ASCENT	Trijicon, Inc.	No
TMK 20-00437	05/21/2020	07/14/2030	TENMILE	Trijicon, Inc.	No
TMK 20-00438	05/21/2020	02/26/2030	BEACHBODY COLLAGEN BOOST	Beachbody, LLC	No
TMK 20-00439	05/21/2020	10/17/2028	BEACHBAR	Beachbody, LLC	No
TMK 20-00440	05/22/2020	08/28/2029	YOGA52	OPENFIT, LLC	No
TMK 20-00441	05/22/2020	06/24/2030	XB PILATES	Openfit, LLC	No
TMK 20-00442	05/22/2020	08/28/2029	OPENFIT & DESIGN	OPENFIT, LLC	No
TMK 20-00443	05/26/2020	07/14/2030	CREDO	Trijicon, Inc.	No

CBP IPR RECORDATION — JUNE 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 20-00444	05/26/2020	06/30/2025	BEACH BAR	BEACHBODY, LLC	No
TMK 20-00445	05/26/2020	02/20/2029	2B MINDSET	Beachbody, LLC	No
TMK 20-00446	05/26/2020	07/07/2030	BEACHBODY ON DEMAND	Beachbody, LLC	No
TMK 20-00447	05/26/2020	10/30/2029	MORNING MELT-DOWN 100	Beachbody, LLC	No
TMK 20-00448	05/26/2020	07/07/2030	ULTIMATE PORTION FIX	Beachbody, LLC	No
TMK 20-00449	05/26/2020	01/15/2030	TRANSFORM20	Beachbody, LLC	No
TMK 20-00450	05/26/2020	07/02/2029	OPENFIT	OPENFIT, LLC	No
TMK 20-00451	05/26/2020	11/13/2029	T MINUS 30	Openfit, LLC	No
TMK 20-00452	05/26/2020	11/13/2029	ROUGH AROUND THE EDGES	Openfit, LLC	No
TMK 20-00453	05/26/2020	08/12/2030	PARK SOCIAL SOCCER	Park Social Soccer LLC	No
TMK 20-00454	05/26/2020	07/02/2029	TOUR DE JOUR	Beachbody, LLC	No
TMK 20-00455	05/26/2020	04/14/2030	DECIDETE. COMPROMÉTETE. ALCA-NZA EL ÉXITO.	Beachbody, LLC	No
TMK 20-00456	05/26/2020	02/24/2030	.ECO	planet.ECO, LLC	No
TMK 20-00457	05/27/2020	08/26/2030	PINK	Victoria's Secret Stores Brand Management, Inc.	No
TMK 20-00458	05/27/2020	08/28/2029	MD AUDIO	PERSAUD MURVIN D DBA MD AUDIO	No
TMK 20-00459	05/27/2020	07/15/2024	DABUR CHYAWANPRASH	Dabur India Limited	No
TMK 20-00460	05/27/2020	08/28/2029	DABUR MESWAK & DESIGN	Dabur India Limited	No
TMK 20-00461	05/27/2020	03/24/2030	Dabur Herbal & DESIGN	Dabur India Limited	No

CBP IPR RECORDATION — JUNE 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 20-00462	05/27/2020	08/28/2029	DABUR RED & DESIGN	Dabur India Limited	No
TMK 20-00463	05/27/2020	01/23/2029	GILSONITE	American Gilsonite Company	No
TMK 20-00464	05/27/2020	11/17/2023	GILSONITE	AMERICAN GILSONITE COMPANY	No
TMK 20-00465	05/27/2020	11/27/2029	DABUR REAL & DESIGN	Dabur India Limited	No
TMK 20-00466	05/27/2020	09/18/2023	DERMOVIVA U.S.A.	Dabur India Limited	No
TMK 20-00467	05/27/2020	11/20/2023	DABUR	Dabur India Limited	No
TMK 20-00468	05/27/2020	02/11/2029	DABUR	Dabur India Limited	No
TMK 20-00469	05/28/2020	10/29/2024	CAN CAN BURLESQUE PARIS HILTON (STYLIZED)	Hilton, Paris	No
TMK 20-00470	05/29/2020	07/22/2023	RUMBA	GFS Worldwide	No
TMK 98-00536	05/20/2020	02/21/2029	Miscellaneous Design (Six Stars)	SUBARU CORPORATION	No
COP 20-00029	05/18/2020	02/18/2021	Mickey's Colorful Garden R50	Vera Bradley Designs, Inc.	No
COP 20-00030	05/19/2020	02/19/2021	Mickey's Colorful Meadow R51	Vera Bradley Designs, Inc.	No

19 CFR PART 177**REVOCAION OF ONE RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF EVAPORATED CREAMER**

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

ACTION: Notice of revocation of one ruling letter, and of revocation of treatment relating to the tariff classification of evaporated creamer.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking one ruling letter concerning tariff classification of evaporated creamer 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. 54, No. 9, on March 11, 2020. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 16, 2020.

FOR FURTHER INFORMATION CONTACT: Catherine Miller, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325-0101.

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), a notice was published in the *Customs Bulletin*, Vol. 54, No. 9, on March 11, 2020, proposing to revoke one ruling letter pertaining to the tariff classification of evaporated creamer. 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 New York Ruling Letter ("NY") N305031, CBP classified the evaporated creamer in heading 1901, HTSUS, specifically in subheading 1901.90.61, HTSUS, which provides for "food preparations of goods of headings 0401 to 0404, not containing cocoa. . . . Other: Other: Dairy products described in additional U.S. note 1 to chapter 4: Dairy preparations containing over 10 percent by weight of milk solids: Described in additional U.S. note 10 to chapter 4 and entered pursuant to its provisions." CBP has reviewed NY N305031 and has determined the ruling letter to be in error. It is now CBP's position that the evaporated creamer is properly classified in subheading 1901.90.91, HTSUS, which provides for "Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included: Other: Other: Other: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N305031 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H305298, set forth as an attachment to this notice. Addition-

ally, 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*.

CRAIG T. CLARK,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H305298
OT:RR:CTF:FTM: H305298 CDM
CATEGORY: Classification
TARIFF NO.: 1901.90.9195

MR. RENATO MONTENEGRO R.
MTRES HOLDING INTERNATIONAL LIMITED
CRAIGMUIR CHAMBERS
PO Box 71
ROAD TOWN
BRITISH VIRGIN ISLANDS

RE: Revocation of NY N305031 (classification of evaporated creamer from Malaysia)

DEAR MR. MONTENEGRO R.:

On July 24, 2019, U.S. Customs and Border Protection (“CBP”) issued New York Ruling Letter (“NY”) N305031 to Mr. Robert Avon of Mtres Holding International Limited (“Mtres Holding”). The ruling pertained to the tariff classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) of evaporated creamer from Malaysia. In NY N305031, CBP classified the evaporated creamer in subheading 1901.90.6100, Harmonized Tariff Schedule of the United States Annotated (“HTSUSA”), which provides for “food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included: Other: Other: Dairy products described in additional U.S. note 1 to chapter 4: Dairy preparations containing over 10 percent by weight of milk solids: Described in additional U.S. note 10 to chapter 4 and entered pursuant to its provisions.”

You submitted a request for reconsideration of NY N305031. We have reviewed NY N305031 and found it to be in error, because the CBP Laboratory report indicated that the product contains 5.4 percent non-fat milk solids, which is below the requisite amount of “over 10 percent milk by weight of milk solids” listed in subheading 1901.90.6100, HTSUSA. Accordingly, NY N305031 is revoked.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. No. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed action was published on March 11, 2020, in Volume 54, Number 9, of the *Customs Bulletin*. No comments were received in response to this notice.

FACTS:

In NY N305031, evaporated creamer from Malaysia was described as follows:

The product is composed of milk, palm oleins, maltodextrin, emulsifier, stabilizers, vitamins A and D³. . . . Evaporated creamer is packed in cans with a net weight of 170 grams, 390 grams, and 400 grams, respectively.

In this ruling, Mtres Holding submitted a technical data sheet for the product but no sample. In your request for reconsideration of NY N305031, you claimed that CBP erred in stating that the evaporated creamer “contains

25% milk solids when it only contains according to our technical data sheet and formulation 9% of skim milk solids.” You also submitted a sample with your reconsideration request.

CBP Laboratory Report No. NY20191509, dated October 17, 2019, identified the sample as consisting of two small cans labeled “sample” and containing the following label description: evaporated creams, 8 percent vegetable fat, 25 percent total product solids. The CBP Laboratory indicated that, based on its analysis, the product contains 5.4 percent non-fat milk solids.

ISSUE:

Whether evaporated creamer is properly classified in subheading 1901.90.6100, HTSUSA, as dairy preparations containing over 10 percent by weight of milk solids, or in subheading 1901.90.9195, HTSUSA, as other food preparations not elsewhere specified.

LAW AND ANALYSIS:

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

The 2019 HTSUS provisions under consideration are as follows:

1901 Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included

* * *

1901.90 Other:
 Other:
 Dairy products described in additional U.S. note 1 to chapter 4:
 Dairy preparations containing over 10 percent by weight of milk solids

1901.90.61 Described in additional U.S. note 10 to chapter 4 and entered pursuant to its provisions

* * *

1901.90.91 Other:
 Other:
 Other:
 Other:
 Other:
 Other

You argue that the evaporated creamer contains only nine percent of skim milk solids so it cannot be classified in subheading 1901.90.61, HTSUS, which must contain over 10 percent by weight of milk solids.

There is no dispute that the evaporated creamer is classifiable under heading 1901, HTSUS, which provides for “food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included.” Note 4(b) to chapter 4 guides that “Products obtained from milk by replacing one or more of its natural constituents (for example butyric fats) by another substance (for example, oleic fats)” belongs in heading 1901 or 2106, HTSUS. The subject merchandise meets the requirements for heading 1901, HTSUS. There is also no dispute that the evaporated creamer is classifiable under the six digit subheading 1901.90, HTSUS, which provides for “Other: Other.”

The question lies at the eight-digit subheading level. NY N305031 classifies the evaporated creamer in the eight-digit subheading 1901.90.61, HTSUS, which requires “Dairy products described in additional U.S. note 1 to chapter 4: Dairy Preparations containing over 10 percent by weight of milk solids.” The referenced additional U.S. note 1 to chapter 4 provides “For the purposes of this schedule, the term ‘dairy products described in additional U.S. note 1 to chapter 4’ means any of the following goods: malted milk, and articles of milk or cream (except (a) white chocolate and (b) inedible dried milk powders certified to be used for calibrating infrared milk analyzers); articles containing over 5.5 percent by weight of butterfat which are suitable for use as ingredients in the commercial production of edible articles (except articles within the scope of other import quotas provided for in additional U.S. notes 2 and 3 to chapter 18); or, dried milk, whey or buttermilk (of the type provided for in subheadings 0402.10, 0402.21, 0403.90 or 0404.10) which contains not over 5.5 percent by weight of butterfat and which is mixed with other ingredients, including but not limited to sugar, if such mixtures contain over 16 percent milk solids by weight, are capable of being further processed or mixed with similar or other ingredients and are not prepared for marketing to the ultimate consumer in the identical form and package in which imported.” The evaporated creamer is an article of cream.

At issue is the percentage of milk solid content, which has been determined by the CBP Laboratory. According to the CBP Laboratory result of the sample that you provided with your reconsideration request, the evaporated creamer only contains 5.4 percent of the non-fat milk solids. Hence, the evaporated creamer does not meet the requisite milk solid content to be classified as a dairy preparation containing over 10 percent of weight of milk solids. Therefore, under GRI 1, the evaporated creamer does not meet the terms of the subheading 1901.90.61, HTSUS.

Since the evaporated creamer does not fall under any of the provisions in subheadings 1901.90.10-1901.90.72, HTSUS, this product is classified under the other provision provided in subheading 1901.90.91, HTSUS. Accordingly, we find that the evaporated creamer is classified in subheading 1901.90.9195, HTSUSA, which provides for “Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 percent by weight of

cocoa calculated on a totally defatted basis, not elsewhere specified or included: Other: Other: Other: Other: Other: Other: Other: Other.”

HOLDING:

Under the authority of GRI 1, Mtres Holding’s evaporated creamer is classified under heading 1901, HTSUS, and specifically in subheading 1901.90.9195, HTSUSA, which provides for “Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included: Other: Other: Other: Other: Other: Other: Other: Other.” The 2019 column one, general rate of duty is 6.4 percent.

This merchandise is subject to The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (“Bioterrorism Act”), which is regulated by the Food and Drug Administration (“FDA”). Information on the Bioterrorism Act can be obtained by calling FDA at 301-575-0156, or at the Web site www.fda.gov/oc/bioterrorism/bioact.html.

EFFECT ON OTHER RULINGS:

NY N305031, dated July 24, 2019, 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,

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division