

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY
19 CFR Part 12
CBP Dec. 12-13

RIN 1515-AD90

EXTENSION OF IMPORT RESTRICTIONS ON ARCHAEOLOGICAL OBJECTS AND ECCLESIASTICAL AND RITUAL ETHNOLOGICAL MATERIALS FROM CYPRUS; CORRECTION

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

ACTION: Final rule; correction; correcting amendment.

SUMMARY: On July 13, 2012, U.S. Customs and Border Protection (CBP) published in the **Federal Register** a final rule reflecting an extension of import restrictions on certain archaeological and ethnological materials from Cyprus and announcing that the Designated List of materials covered by the restrictions has been revised. The Designated List and the regulatory text in that document contain language which is inadvertently not consistent with the rest of the document as to the historical period that the import restrictions cover for ecclesiastical and ritual ethnological materials from Cyprus. This document corrects the inconsistent language to clarify that ecclesiastical and ritual ethnological materials from Cyprus representing the Byzantine and Post Byzantine periods, dating from approximately the 4th century A.D. to 1850 A.D., are subject to the import restrictions.

DATES: *Effective Date:* The corrections set forth in this document are effective on August 1, 2012.

FOR FURTHER INFORMATION CONTACT: Bill Conrad, Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, (202) 325-0268.

SUPPLEMENTARY INFORMATION:

Background

On July 13, 2012, CBP published in the **Federal Register** (77 FR 41266), as CBP Decision Number 12–13, a final rule reflecting an extension of import restrictions on certain archaeological and ethnological materials from Cyprus and announcing that the Designated List of materials covered by the restrictions (also published with CBP Dec. 12–13) has been revised to reflect that the ethnological articles previously covered under the list through the Byzantine period (through approximately the 15th century A.D.) are also covered if dating through the Post-Byzantine period (to 1850 A.D.). The Designated List contains a list of certain archaeological materials and a list of certain ethnological materials. The revisions were limited to the list of ethnological materials.

The rule also announced an amendment to the list of ethnological materials to clarify that certain mosaics of stone and wall paintings (referred to as “wall hangings” in CBP Dec. 12–13) include those depicting images of Saints along with those depicting images of Christ, Archangels, and the Apostles. The restrictions were extended for a five-year period (through July 16, 2017) pursuant to determinations of the State Department under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

In CBP Dec. 12–13, the title of the Designated List was erroneously abbreviated where the Department of State Web site is listed. This document corrects the omission and clarifies that the covered ecclesiastical and ritual ethnological materials are those dating to the Byzantine and Post-Byzantine periods. In the list of ethnological materials, CBP inadvertently retained references to the Byzantine period. As the list was revised to cover listed ethnological materials if dating to the Post-Byzantine period as well, references to the Byzantine period in the list are inconsistent and misleading. This document corrects the oversight and removes all references to the Byzantine period in the list. In addition, this document corrects the language in Amendatory Instruction number 2 of CBP Dec. 12–13 which imprecisely set forth in the amended regulation the end point of the time period applicable to the ethnological materials covered by the restrictions. This correction remedies an inconsistency with the time period

which was correctly reflected in the heading of the list of ethnological materials found on page 41269 of the published document (in the first column).

Correction of Publication

Accordingly, the publication on July 13, 2012 of the final regulation (CBP Dec. 12–13), which was the subject of FR Doc. 2012–16989, is corrected as follows:

Preamble:

1. In the first column on page 41267, in the last paragraph that extends into the second column, first sentence, remove the words “and Ecclesiastical and Ritual Ethnological Materials” and add in their place the words “and Byzantine and Post-Byzantine Period Ecclesiastical and Ritual Ethnological Materials”;

2. In the first column on page 41269:

a. Under the heading “B. Lead,” remove the words “date to the Byzantine period and”, and

b. Under the heading “II. Wood,” in the first sentence, remove the words “during the Byzantine period”;

3. In the second column on page 41269:

a. Under the heading “V. Textiles— Ritual Garments,” in the first sentence, remove the words “from the Byzantine period”,

b. Under the heading “A. Wall Mosaics,” in the first sentence, remove the words “Dating to the Byzantine period, wall mosaics” and add in their place the words “Wall mosaics”, and

c. Under the heading “VII. Frescoes/ Wall Paintings,” in the first sentence, remove the words “the Byzantine period”.

Correcting amendment:

§ 12.104g(a) [Amended]

■ 4. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Cyprus by, in the column headed “Cultural Property,” removing the entry and adding in its place the following entry:

“Archaeological material of pre-Classical and Classical periods ranging approximately from the 8th millennium B.C. to 330 A.D. and ecclesiastical and ritual ethnological material representing the Byzantine and Post-Byzantine periods ranging from approximately the 4th century A.D. to 1850 A.D.”

Dated: July 26, 2012.

HAROLD M. SINGER,
*Director, Regulations and Disclosure Law
Division,
U.S. Customs and Border Protection.*

[Published in the Federal Register, August 1, 2012 (77 FR 45479)]

[ADM-9-03 OT:RR:RD:BS; H218497 MAW]

**NOTICE OF AVAILABILITY OF A FINAL PROGRAMMATIC
ENVIRONMENTAL IMPACT STATEMENT AND DRAFT
RECORD OF DECISION FOR NORTHERN BORDER
ACTIVITIES**

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Notice of availability.

SUMMARY: U.S. Customs and Border Protection (CBP) announces that the Final Programmatic Environmental Impact Statement (PEIS) and Draft Record of Decision (ROD) for Northern Border Activities are now available. The Final PEIS analyzes the potential environmental and socioeconomic effects associated with its ongoing and potential future activities along the northern border between the United States and Canada. The overall area of study analyzed in the document extends approximately 4,000 miles from Maine to Washington and 100 miles south of the U.S.-Canada Border. A Draft ROD announcing CBP's decision concerning which alternative to select is available for review for 30 days.

DATES: The Draft ROD will be available until August 27, 2012. CBP will issue a Final ROD no sooner than August 27, 2012.

ADDRESSES: The public and other interested parties may obtain copies of the Final PEIS and Draft ROD by accessing the following Internet address: <http://www.cbp.gov/xp/cgov/about/sr/> and www.dhs.gov/nepa, by contacting CBP by telephone (202-325-4191), by email cbpenvironmentalprogram@cbp.dhs.gov, or by writing to: Jennifer DeHart Hass, Environmental and Energy Division, 1331 Pennsylvania Ave. NW., Suite 1220N, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Jennifer DeHart Hass, CBP, Office of Administration, telephone 202-325-4191. You may also visit the project's Web site at: <http://www.cbp.gov/xp/cgov/about/sr/>.

SUPPLEMENTARY INFORMATION:

Background

U.S. Customs and Border Protection (CBP) is charged with the mission of enforcing customs, immigration, agriculture, and numerous other laws and regulations at the Nation's borders and facilitating legitimate trade and travel through legal ports of entry. As the guardian of the United States' borders, CBP protects the roughly 4,000 miles of northern border between United States and Canada, from Maine to Washington. The terrain ranges from densely forested lands on the west and east coasts to open plains in the middle of the country.

CBP has completed a Final Programmatic Environmental Impact Statement (PEIS) for its ongoing and potential future activities along the northern border. The Final PEIS is now available. (For instructions on obtaining a copy of the PEIS, please *see* the **ADDRESSES** section of this document.) Because this effort is programmatic in nature, the PEIS does not define effects for a specific or planned action. Instead, it analyzes the overall environmental and socioeconomic effects of activities supporting the homeland security mission of CBP and looks at various alternatives that would enhance CBP's border security activities.

Public Scoping Process

On July 6, 2010, CBP published in the **Federal Register** (75 FR 38822) a notice announcing that CBP intended to prepare four PEISs to analyze the environmental effects of current and potential future CBP border security activities along the northern border. Each PEIS was to cover one region of the northern border: The New England region, the Great Lakes region, the region east of the Rocky Mountains, and the region west of the Rocky Mountains. The notice also announced and initiated the public scoping process to gather information from the public in preparation for drafting the PEISs. The notice provided that the scoping period would conclude on August 5, 2010, after CBP held 11 scoping meetings at various locations along the northern border. CBP continued to take comments past the initial scoping period.

Draft PEIS

Subsequently, and in part due to comments received during public scoping, CBP decided to refocus its approach and develop one PEIS covering the entire northern border, rather than four separate, regional PEISs. CBP concluded that, relative to four separate PEISs, one PEIS would be a more useful planning tool. CBP also determined

that this new approach would ensure that CBP could effectively analyze and convey impacts that occur across regions of the northern border. Therefore, CBP published a notice in the **Federal Register** (75 FR 68810) announcing this intention on November 9, 2010. On September 16, 2011, CBP published a notice of availability of the Draft PEIS in the **Federal Register** (76 FR 57751) with request for comments and announcement of public meeting dates.

In the Draft PEIS, CBP analyzed the environmental and socio-economic effects of current and potential future CBP border security activities along the northern border between the United States and Canada, including an area extending approximately 100 miles south of the northern border. For the purposes of the PEIS, CBP defined the northern border as the area between the United States and Canada extending from the Atlantic Ocean to the Pacific Ocean, encompassing all the states between Maine and Washington, inclusively. (The Alaska-Canada border is not included in this effort.) In the PEIS, CBP evaluated the environmental and socioeconomic impacts of routine aspects of its operations along the northern border and considered potential enhancements to its infrastructure, technologies, and application of manpower to continue to deter existing and evolving threats to the Nation's physical and economic security. The PEIS analyzed four northern border regions: The New England region, the Great Lakes region, the region east of the Rocky Mountains, and the region west of the Rocky Mountains. The PEIS did not contain specific proposals for projects, nor did it convey a specific intent to expand CBP's activities within the period covered by the PEIS.

Publication of the Draft PEIS initiated a public review and comment period. During that review and comment period, CBP held 12 public meetings in various locations within the area of study and one additional meeting in the Washington, DC metropolitan area to reach any national interest groups seeking information on CBP's evaluation. CBP's public involvement strategy sought to cover a broad range of the northern border, including remote areas, mid-sized towns, and some population centers. Because CBP will take the requisite steps to comply with NEPA for specific projects that are within the scope of the alternatives or activities covered by this PEIS, there will be additional opportunities for public involvement regarding potentially significant impacts to the environment.

CBP received 123 pieces of correspondence providing comments, which contained over 700 comments on the Draft PEIS. Some recurring themes received in the comments include:

- Concerns with the sufficiency of the range of alternatives proposed and their comparative analysis;

- Concern about potential impacts to transboundary areas and transboundary movement of species;
- Concerns regarding belief that CBP would use this PEIS to justify building a fence along the border;
- Concerns with potential impacts to specific cultural resources identified by commenters; and
- Issues with the extent of public outreach conducted by CBP for the PEIS.

Final PEIS

After further analysis and consideration of the comments received on the Draft PEIS, CBP has now completed a Final PEIS. CBP has prepared the Final PEIS as a planning tool in accordance with DHS Directive 023–01, Environmental Planning. The Final PEIS is intended to provide decision-makers within CBP with information on the potential for direct, indirect, and cumulative environmental impacts that could result from any future proposals to secure and otherwise facilitate legal trade and travel through the northern border. CBP plans to use the information derived from the analysis in the Final PEIS in management, planning, and decision-making for its mission and its environmental stewardship responsibilities. It will also be used to establish a foundation for future impact analyses.

More specifically, CBP plans to use the Final PEIS analysis over the next five to seven years as CBP works to improve security along the northern border. CBP will use this PEIS as a foundation for future environmental analyses of specific programs or locations as CBP's plans for particular northern border security activities develop. The Final PEIS provides background information for the incorporation of more project-specific plans; CBP would not implement any alternative or any element of any alternative in the Final PEIS based solely on the analysis presented in the Final PEIS. To implement a specific plan, CBP would take the requisite steps to comply with the National Environmental Policy Act of 1969 (NEPA).

Incorporation of Comments

The Final PEIS reflects the consideration and incorporation of public comments received on the Draft PEIS. In its responses, CBP sought to improve the explanation of the comparative merits of each alternative and make clear that the alternatives represent a reasonable set of options given that CBP is not proposing specific location or intensity based-strategies for augmenting activities at this time. In addition, CBP clarified that the PEIS did not set forth a specific

proposal for expansive use of barriers between the ports of entry and that any future proposal would be subject to a site-specific impacts analysis, including consultation with affected landowners, land managers, and agencies with jurisdiction over impacted resources. Finally, CBP clarified that several comments regarding impacts to specific resources of cultural or socioeconomic importance to individual commenters were not addressed in the PEIS because the programmatic nature of the document would not permit addressing detailed impacts to every location-specific resource.

Substantive comments within the scope of considerations covered in the Draft PEIS have been incorporated in the Final PEIS. CBP's responses to all comments received are summarized in Appendix A of the Final PEIS. CBP also made additional technical clarifications from the draft identified through the course of incorporating comments.

Alternatives Considered

The Final PEIS considers the environmental impacts of several alternative approaches CBP may use to protect the northern border against evolving threats. These alternatives would all support continued deployment of existing CBP personnel in the most effective manner while maintaining officer safety and continued use of partnerships with other Federal, state, and local law enforcement agencies in the United States and Canada. CBP needs to maintain effective control of the northern border via all air, land, and maritime pathways for cross-border movement.

The No Action Alternative (or "status quo") would be to continue with the same facilities, technology, infrastructure, and approximate level of personnel currently in use, deployed, or currently planned by CBP. Normal maintenance of existing facilities is included in this alternative, along with previously planned or started projects. This alternative would not meet the purpose and need of the proposed action to allow CBP the flexibility to improve its capability to interdict cross-border violators and to identify and resolve threats at the ports of entry in a manner that avoids adverse effects on legal trade and travel. However, it is evaluated in the PEIS because it provides a baseline against which the impacts of the other reasonable alternatives can be compared.

The Facilities Development and Improvement Alternative would focus on providing new permanent facilities or improvements to existing facilities, such as Border Patrol stations, ports of entry, and other facilities to allow CBP officials to operate more efficiently and respond to situations more quickly. This alternative would help meet

CBP's goals because the new and improved facilities would make it more difficult for cross-border violators to cross the border. It would also divert traffic from or increase the capacity of the more heavily used ports of entry, decreasing waiting times. The applicability of this alternative would be limited, as most roads crossing the northern border already have a crossing facility.

The Detection, Inspection, Surveillance, and Communications Technology Expansion Alternative would focus on deploying more effective detection, inspection surveillance, and communication technologies in support of CBP activities. This alternative would involve utilizing upgraded systems that would enable CBP to focus efforts on identifying threat areas, improving agent and officer communication systems, and deploying personnel to resolve incidents with maximum efficiency. This alternative would meet CBP's goals by improving CBP's situational awareness and allowing CBP to more efficiently and effectively direct its resources for interdicting cross-border violators.

The Tactical Security Infrastructure Deployment Alternative would focus on constructing additional barriers, access roads, and related facilities. The barriers would include selective fencing and vehicle barriers at selected points along the border and would deter and delay cross-border violators. The access roads and related facilities would increase the mobility of agents and enhance their capabilities for surveillance and for responding to various international border violations. This alternative would help meet CBP's goals by discouraging cross-border violators and improving CBP's capacity to respond to threats, but would not assist CBP in identifying and classifying threats.

The Flexible Direction Alternative would allow CBP to follow any of the above directions in order to employ the most effective response to the changing threat environment along the northern border. This approach would allow CBP to respond flexibly to a constantly changing threat environment.

Identified Preferred Alternative and Draft Record of Decision

As a result of the analysis in the PEIS, the Draft Record of Decision (ROD) identifies the alternative that is most representative of the approach CBP will employ in order to respond to changes in security or trade and travel priorities or evolving threats within the next five to seven years. CBP is making the Draft ROD available at this time. The Final ROD will be issued no sooner than 30 days from the date of publication of this notice.

The Final PEIS identifies the Detection, Inspection, Surveillance, and Communications Expansion Alternative as the environmentally preferred alternative. Likewise, the Draft ROD selects the Detection, Inspection, Surveillance, and Communications Expansion Alternative as the one that is most representative of the approach CBP will employ in the next five to seven years; however, changes in the nature, intensity, or locations of cross-border threats, or changes in national security or trade, travel, and economic priorities may compel CBP to adopt the Flexible Direction Alternative in the future. If such changes in cross-border threats or national security priorities occurred within five to seven years of the issuance of a final ROD, CBP would notify the public that it was changing its selected alternative through its Web sites (<http://www.cbp.gov/xp/cgov/about/sr/> and www.dhs.gov/nepa) and through the **Federal Register** with a new Draft ROD and a 30 day waiting period before making this change by issuing a Final ROD. Otherwise, CBP would determine if it needed to supplement the PEIS in accordance with the requirements found at 40 CFR 1502.9.

The Draft ROD also clarifies CBP's recognition that the actual level of activities that might be required could very likely be substantially lower than what is addressed in the PEIS.

NEPA

This environmental analysis is conducted pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the Council on Environmental Quality Regulations for Implementing the NEPA (40 CFR parts 1500–1508), and Department of Homeland Security Directive 023–01 (renumbered from 5100.1), *Environmental Planning Program of April 19, 2006*. NEPA addresses concerns about environmental quality and the government's role in protecting it. The essence of NEPA is the requirement that every Federal agency examine the environmental effects of any proposed action before deciding to proceed with it or with some alternative. NEPA and the implementing regulations issued by the President's Council on Environmental Quality call for agencies to document the potential environmental effects of actions they are proposing. Generally, agencies must make those documents public, and seek public feedback on them.

In accordance with NEPA, the PEIS analyzes the effects on the environment of CBP's Northern Border Activities. CBP has sought public input on these studies and will use them in agency planning and decisionmaking. Because NEPA is a uniquely broad environmental law and covers the full spectrum of the natural and human environment, the PEIS also addresses environmental considerations

governed by other environmental statutes such as the Clean Air Act, Clean Water Act, Endangered Species Act, and National Historic Preservation Act (NHPA).

Next Steps

The Draft ROD is available to the public at the following Web sites: <http://www.cbp.gov/xp/cgov/about/sr/> and www.dhs.gov/nepa. A final decision will be made no sooner than 30 days from July 27, 2012 and issued in a Final ROD. The Final ROD will select an alternative to guide CBP's activities along the northern border for the next five to seven years. That decision will be published in the **Federal Register** in a Final ROD and will be made available to the public at the same Web site.

Dated: July 23, 2012.

CHRISTOPHER S. OH,
*Acting Executive Director,
Facilities Management and Engineering,
Office of Administration.*

[Published in the Federal Register, July 27, 2012 (77 FR 44259)]

[Docket No. USCBP-2012-0027]

ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF CUSTOMS AND BORDER PROTECTION (COAC)

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

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC) will meet on August 15, 2012, in Seattle, WA. The meeting will be open to the public.

DATES: COAC will meet on Wednesday, August 15, 2012 from 1:00 p.m. to 5:30 p.m. PST. Please note that the meeting may close early if the committee has completed its business.

Registration: If you plan on attending, please register either online at https://apps.cbp.gov/te_registration/index.asp?w=80 or by email to tradeevents@dhs.gov, or by fax to 202-325-4290 by close-of-business on August 12, 2012.

If you have completed an online on-site registration and wish to cancel your registration, you may do so at https://apps.cbp.gov/te_registration/cancel.asp?w=80. Please feel free to share this information with interested members of your organizations or associations.

ADDRESSES: The meeting will be held at Jackson Federal Building, 915 2nd Avenue, Seattle, WA 98174, in the South Auditorium—4th Floor. All visitors report to main lobby of the building. All visitors to the Jackson Federal Building must show a state-issued ID or Passport to proceed through the security checkpoint to be admitted to the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection at 202-344-1661 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the “Agenda” section below.

Comments must be submitted in writing no later than August 8, 2012, and must be identified by USCBP-2012-0027 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* Tradeevents@dhs.gov. Include the docket number in the subject line of the message.
- *Fax:* 202-325-4290
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229.

Instructions: All submissions received must include the words “Department of Homeland Security” and the docket number for this action. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. Do not submit personal information to this docket.

Docket: For access to the docket to read background documents or comments received by the COAC, go to <http://www.regulations.gov>.

There will be two public comment periods held during the meeting on August 15, 2012. Speakers are requested to limit their comments to two (2) minutes or less to facilitate greater participation. Contact the individual listed below to register as a speaker. Please note that

the public comment period for speakers may end before the time indicated on the schedule that is posted on the CBP web page at the time of the meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229; telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act*, 5 U.S.C. App. (Pub. L. 92–463). The COAC provides advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within DHS or the Department of the Treasury.

Agenda

The COAC will hear from the following subcommittees on the topics listed below and then will review, deliberate, and formulate recommendations on how to proceed on those topics:

- The work of ACE Strategic Communications Working Group and how CBP should proceed in communicating with the trade community as the agency shifts from the Automated Commercial System (ACS) when ACE becomes fully functional.
- The work of the Trade Facilitation Subcommittee: Recommendations and resolutions on CBP's Trade Transformation initiatives, report of findings from the COAC Industry Survey regarding the expected benefits of the Centers of Excellence and Expertise and recommendations on next steps based on Survey results, and conclusions from the Instruments of International Trade (IITs) Residue Work Group on its study of the various concerns regarding establishing a test on the manifesting and entry of IITs containing residue with no commercial value.

Prior to the COAC taking action on any of these topics of the above-mentioned subcommittees, members of the public will have an opportunity to provide oral or written comments.

The COAC will also receive an update and discuss the following initiatives and subcommittee topics that were discussed at its May 22, 2012 meeting:

- The National Strategy for Global Supply Chain Security as it relates to an effort to solicit, consolidate, and provide to DHS sector and stakeholder input on implementation of the National Strategy.
- The Air Cargo Security Subcommittee work on the Air Cargo Advance Screening (ACAS) pilot, providing feedback on international outreach efforts and Input on a list of Frequently Asked Questions (FAQs).
- The Bond Subcommittee work on proposed modifications to the CBP Form 5106 (Importer Identification Input Record); input on single transaction bonds (STBs) centralization; liquidated damages/mitigation guidelines and the use of STBs when additional security is merited.
- The Intellectual Property Rights Enforcement Subcommittee work on providing CBP guidance on new tools to be used in the port of entry to help identify counterfeit products, the distribution chain management and serialization pilot projects, and modifications to the CBP recordation database of federally registered trademarks, trade names, and copyrights.
- The Anti-Dumping/Countervailing Duties Subcommittee: Updates and observations from the trade community regarding CBP's recent implementation of policy regarding use of single transaction bonds (STBs) as an enforcement tool, update on CBP's efforts to work with various industries on obtaining trade intelligence and subcommittee feedback on CBP's Draft 5 year Anti-Dumping/Countervailing Duties Enforcement Strategy.
- The Land Border Security Subcommittee: Updates and observations on the Customs—Trade Partnership Against Terrorism (C-TPAT) Program Internet survey and the National Strategy for Global Supply Chain Security to include CBP Trusted Trader programs and Beyond the Border initiatives.
- The One U.S. Government at the Border Subcommittee: Updates on discussions regarding Trusted Trader Partnership Programs.
- The work of the Role of the Broker Subcommittee: Receive subcommittee feedback on CBP's efforts to update 19 CFR Part 111 (Broker Regulations).
- The formation of an Export subcommittee; review of subcommittee scope and goals.

Dated: July 26, 2012.

MARIA LUISA O'CONNELL,
*Senior Advisor for Trade,
 Office of Trade Relations.*

[Published in the Federal Register, July 31, 2012 (77 FR 45366)]

**NOTICE OF CANCELLATION OF CUSTOMS BROKER
 LICENSES**

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

ACTION: General Notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the U.S. Customs and Border Protection regulations (19 CFR 111.51), the following Customs broker licenses and all associated permits are cancelled without prejudice.

Name	License No.	Issuing port
Ferrara International Logistics	11930	New York.
J.B. Fong & Co., Inc	06461	San Francisco.
Air 7 Seas Transport Logistics, Inc	23081	San Francisco.
Liberty Port Broker, Inc	20911	New York.
Sky Sea Forwarding Corp	13261	New York.
Contact Customs Clearance, Inc	13467	New York.
Legacy Worldwide Logistics, Inc	22827	New York.
Hellmuth Dieterle	05289	New York.

Dated: July 25, 2012.

RICHARD F. DiNUCCI,
*Acting Assistant Commissioner,
 Office of International Trade.*

[Published in the Federal Register, August 1, 2012 (77 FR 45647)]

**NOTICE OF CANCELLATION OF CUSTOMS BROKER
 LICENSES DUE TO DEATH OF THE LICENSE HOLDER**

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

ACTION: General Notice.

SUMMARY: Notice is hereby given that, pursuant to Title 19 of the Code of Federal Regulations at section 111.51(a), the following individual Customs broker licenses and any and all permits have been cancelled due to the death of the broker:

Name	License No.	Issuing port
David D. Combs	09873	Chicago
Ubaldo Diaz	05914	New York
Achille D'Anca	03631	New York
Brian J. Rodgers	05462	New York
Leonard M. Shayne	02500	New York
John S. Ross	02482	New York
Mary Beth LaPenna	20824	New York
Frederick Matalevich	04360	New York
Samuel Felicano	21146	Miami

Dated: July 25, 2012.

RICHARD F. DiNUCCI,
*Acting Assistant Commissioner,
 Office of International Trade.*

[Published in the Federal Register, August 1, 2012 (77 FR 45648)]

**PROPOSED REVOCATION OF RULING LETTERS AND
 PROPOSED REVOCATION OF TREATMENT RELATING TO
 THE ELIGIBILITY OF GOODS FOR DUTY-FREE
 TREATMENT UNDER SUBHEADING 9801.00.25**

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 eligibility of goods for duty-free treatment under subheading 9801.00.25, HTSUS.

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 Customs and Border Protection (CBP) proposes to revoke two ruling letters relating to the eligibility of goods for duty-free treatment under subheading 9801.00.25, of the Harmonized Tariff Schedule of the United States. CBP also proposes to revoke any

treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before September 14, 2012.

ADDRESSES: Written comments are to be addressed to Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 799 9th Street, N.W. - 5th Floor, Washington, D.C. 20229-1179. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street N.W., Washington, D.C. 20001 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: Karen Greene, Valuation and Special Programs Branch: (202) 325-0041.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625 (c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(1)), this notice advises interested parties that CBP proposes to revoke two ruling letters pertaining to the eligibility of

goods for duty-free treatment under subheading 9801.00.25, HTSUS, of goods reimported for repair, upgrade, or exchange.

Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter (NY) N163660, dated May 16, 2011, and N069900, dated August 5, 2009, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

In NY N163660, set forth respectively as Attachment A to this document, CBP held that tires reimported for repair, upgrade, or exchange are eligible for duty-free treatment under subheading 9801.00.25, HTSUS. We have reviewed the ruling and determined that the analysis is not correct. It is now our position that tires reimported for upgrade would not be eligible for duty-free treatment under subheading 9801.00.25, HTSUS. Tires reimported for repair or exchange would only be eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if the tires were delivered not conforming to sample or specifications.

In NY N069900, set forth respectively as Attachment B to this document, CBP held that cameras, lenses, lithium batteries, battery chargers, battery packs, and battery plates that are reimported for repair, exchange, or upgrade under warranty were eligible for duty-free treatment upon reimportation in subheading 9801.00.25. It is now our position that cameras and camera accessories reimported for upgrade would not be eligible for duty-free treatment under subheading 9801.00.25, HTSUS. Cameras and camera accessories reimported for repair or exchange would only be eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if the goods were delivered in a condition not conforming to sample or specification.

Pursuant to 19 U.S.C. 1625(c)(1), CBP proposes to revoke NY N163660 and N069900 and revoke any other ruling not specifically identified, in order to reflect the proper interpretation of subheading 9801.00.25, HTSUS according to the analysis contained in proposed HQ H173817, and H209471 set forth as Attachments C and D to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP proposes 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: June 22, 2012

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N163660

May 16, 2011

CLA-2-40:OT:RR:NC:N1:106

CATEGORY: Classification

TARIFF NO.: 4011.10, 4011.20, 9801.00.2500

MR. BRET HOLDER
SIMON, GLUCK & KANE, LLP
1700 BROADWAY
NEW YORK, NY 10019

RE: The tariff classification of tires returned to the US from Canada.

DEAR MR. HOLDER:

In your letter dated April 28, 2011, you requested a tariff classification ruling on behalf of your client, Bridgestone Americas Tire Operations, LLC. You state that tires, made in various countries are imported by Bridgestone Americas Tire Operations, LLC. You further state that he applicable sub-heading for the tires will be either 4011.10, Harmonized Tariff Schedule of the United States (HTSUS), which provides for new pneumatic tires, of rubber: of a kind used on motor cars or 4011.20, HTSUS, which provides for new pneumatic tires, of rubber: of a kind used on buses or trucks; when imported into the US as new by Bridgestone Americas Tire Operations, LLC.

You further state that the tires will be exported to Canada from the US and on some occasions returned to the US for repair, upgrade or exchange. The tires will not have been advanced in condition or value in Canada.

In such cases, if all necessary requirements concerning documentation and identification of the tires that are returned to the US from Canada are satisfied at the port at the time of importation, the special classification provision of 9801.00.2500 which provides for articles, previously imported, with respect to which the duty was paid upon such previous importation if (1) exported within three years after the date of such previous importation, (2) reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, (3) reimported for the reason that such articles do not conform to sample or specifications, and (4) reimported by or for the account of the person who imported them into, and exported them from, the United States. This special provision allows for a free rate of duty.

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 Mark Palasek at (646) 733-3013.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

August 5, 2009
CLA-2-98:OT:RR:E:NC:1:108
CATEGORY: Classification
TARIFF NO.: 9801.00.25

MR. JEFERSON PERIN
RED.COM, INC.
20291 VALENCIA CIRCLE
LAKE FOREST, CA 92630

RE: The tariff classification of articles previously imported into the United States from Singapore, Japan, Great Britain, and Malta, which were exported from the United States and returned for repair, exchange, or upgrade.

DEAR MR. PERIN:

In your letter dated July 24, 2009, you requested a tariff classification ruling.

The merchandise in question is cameras, lenses, lithium batteries, battery charges, battery packs, and battery plates. All of items listed above are imported and kept in inventory in the United States for distribution to various customers worldwide. The cameras, lenses, batteries, and accessories that are defective or require upgrade are returned to Red.Com, Inc. in the United States for repair, upgrade, or exchange at no additional cost, when under warranty. The inventory method used is FIFO (first in – first out) and the inventory turnover is thirty days. While in the possession of the final consignee abroad, the merchandise is not advanced in value or improved in condition by any process of manufacture or other means. As per the information provided, this dutiable merchandise was imported and then exported, and duty was paid on the first importation. If they meet the requirements found in 19 CFR 10.8a, which needs to be substantiated, the applicable subheading for the cameras, lenses, batteries, etc., will be 9801.00.25, Harmonized Tariff Schedule of the United States (HTSUS), which provides for the duty-free entry of: articles, previously imported, with respect to which the duty was paid upon such previous importation if (1) exported within three years after the date of such previous importation, (2) reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, (3) reimported for the reason that such articles do not conform to sample or specification, and (4) reimported by or for the account of the person who imported them into, and exported them from the United States.

In addition to meeting all the requirements set forth in subheading 9802.00.25, certain documents must be filed in connection with the entry of articles claimed to be free of duty under HTSUS subheading 9801.00.25:

A declaration by the person abroad who received and is returning the merchandise to the United States, which contains the following information and statements: a description of the merchandise; the name and address of the U.S. exporter from whom the merchandise was received; a statement that the merchandise has not been advanced in value or improved in condition by any process of manufacture or other means; and the name and address of the consignee in the United States to whom the merchandise is being returned because it does not conform to sample or specifications and the reasons why it does not conform to sample or specifications; and

A declaration by the owner, importer, consignee, or agent, which contains the following information and statements: a description of the merchandise; a statement that the merchandise was previously imported into the United States that also identifies the port, entry number, date of entry, name and address of the importer and that the duty was paid at that time; a statement that the merchandise was exported from the United States that also identifies the port of exportation, the date of exportation, the name of the exporter and that the merchandise was exported without benefit of drawback; a statement that identifies who the articles are being reimported by or for the account of; and a statement that the attached declaration from the foreign shipper (which identifies the foreign shipper) is correct in every respect.

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 Lisa Cariello at (646) 733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT C]

HQ H173817

OT:RR:CTF:VS H173817 KSG

MR. BRET HOLDER
SIMON, GLUCK & KANE LLP
1700 BROADWAY
NEW YORK, NY 10019

RE: Revocation of NY N163660; subheading 9801.00.25; not conforming due to sample or specifications; tires

DEAR MR. HOLDER:

This is in reference to New York ruling letter (“NY”) N163660, dated May 16, 2011, regarding the eligibility of imported tires for duty-free treatment under subheading 9801.00.25, HTSUS. In NY N163660, CBP held that tires reimported for repair, upgrade or exchange are eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if documentary requirements are met. Upon review of NY N163660, CBP has determined that it is incorrect. Accordingly, for the reasons set forth below, we intend to revoke that ruling.

FACTS:

New pneumatic radial and bias tires are imported into the U.S. and any duties owing are paid by Bridgestone. Certain tires are exported to Canada where they do not undergo processing or any manufacture. Bridgestone Americas Tire Operations LLC (“Bridgestone”) reimports some tires for repair due to defect or damage, upgrade, or for exchange. The exact reason for the exchange is not given. Bridgestone would submit the appropriate documentation required by 19 CFR 10.8a.

You state that the tires are classified in subheadings 4011.10 and 4011.20, HTSUS.

ISSUE:

Whether the reimported tires described above are eligible for duty-free treatment under subheading 9801.00.25, HTSUS.

LAW AND ANALYSIS:

Section 141.2 of the Customs Regulations (19 CFR 141.2) provides that dutiable merchandise imported and afterward exported, even though duty thereon may have been paid on the first importation, is liable to duty on every subsequent importation into the Customs territory of the United States unless exempt by law.

Subheading 9801.00.25, HTSUS, provides for the duty-free treatment of:

[a]rticles, previously imported, with respect to which the duty was paid upon such previous importation if (1) exported within three years after the date of such previous importation, (2) reimported without having advanced in value or improved in condition by any process of manufacture or other means while abroad, (3) reimported for the reason that such articles do not conform to sample or specifications, and (4) reimported by or for the account of the person who imported them into, and exported them from, the United States.

We assume for the purposes of this ruling that paragraphs (1), (2), and (4) are satisfied in this case. In order to qualify for duty-free treatment under subheading 9801.00.25, HTSUS, there must be some tangible evidence that the returned merchandise does not conform to “sample or specifications.”

The application of this provision is clear where the failure to meet specifications relates to the physical nature of the goods such as a shipment which includes the wrong style number, the wrong size, the wrong color, or defective workmanship. In Headquarters Ruling Letter (“HRL”) 558746, dated January 6, 1995, Customs held that alarm and security equipment which was defective due to mishandling during delivery failed to conform to specification and was entitled to duty-free treatment under subheading 9801.00.25, HTSUS, upon reimportation into the United States. By contrast, in HRL 559298, dated February 7, 1996, Customs held that goods which were returned that physically conformed to contract specifications but which did not comply with other terms of the contract, such as the quantity of the merchandise or timeliness of delivery were not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. In HRL 560421, dated August 20, 1997, Customs held that merchandise reimported for repair but subsequently returned without repair due to the costliness of repair was not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. CBP concluded in this ruling that the importer must be able to submit evidence that the goods were reimported because they do not conform to specifications. In HRL 562057, dated August 27, 2002, CBP held that a vacuum pump reimported because it did not work properly was not eligible for duty-free treatment under subheading 9801.00.25, HTSUS, because no evidence was submitted to establish that the pump was delivered in a defective condition.

The issue presented is whether the tires reimported for repair, upgrade or exchange would be considered reimported for the reason that such articles do not conform to sample or specifications.

Bridgestone did not submit evidence to establish that any of the tires did not conform to sample or specification. The reimported goods include tires reimported for upgrade or exchange that may conform to sample or specification. Subheading 9801.00.25, HTSUS, is only available for goods that do not conform to sample or specification. Goods that need repair or are exchanged because they do not conform to sample or specification are covered by this provision where the importer submits appropriate documentation to show non-conformance with sample or specification. However, goods that are upgraded or exchanged due to lack of demand or other rationale are not considered as failing to conform to sample or specification. Therefore, we find that tires reimported for upgrade would not be eligible for duty-free treatment under subheading 9801.00.25, HTSUS. Further, tires reimported for repair or exchange are only eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if those tires failed to conform to sample or specification and the importer, upon their return, submits sufficient documentation to demonstrate that the goods do not conform to sample specification.

HOLDING:

Tires reimported for upgrade or exchange due to lack of demand are not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. The importer must establish that the goods did not conform to sample or specification and the documentary requirements set forth in 19 CFR 10.8 must be satisfied.

EFFECT ON OTHER RULINGS:

NY N163660, dated May 16, 2011, 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 & Trade Facilitation Division

[ATTACHMENT D]

HQ H209471

OT:RR:CTF:VS H209471 KSG

MR. JEFFERSON PERIN
20291 VALENCIA CIRCLE
LAKE FOREST, CA 92630

RE: Revocation of NY N069900; Subheading 9801.00.25; Not conforming due to sample or specifications; Cameras

DEAR MR. PERIN:

This is in reference to New York Ruling Letter (“NY”) N069900, dated August 5, 2009, regarding the eligibility of imported cameras, lenses, batteries, battery chargers, battery packs, and battery plates for duty-free treatment under subheading 9801.00.25, HTSUS. In NY N069900, CBP held that cameras and accessories reimported for repair, upgrade or exchange are eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if documentary requirements are met. Upon review of NY N069900, CBP has determined that it is incorrect. Accordingly, for the reasons set forth below, we intend to revoke that ruling.

FACTS:

Red.com imports cameras, lithium batteries, battery chargers, battery packs, and battery plates, which are kept in inventory for worldwide distribution. Duty is paid on the goods on the initial importation. Goods that are defective or require upgrade are returned to Red.com in the U.S. for repair, upgrade, or exchange when under warranty. The goods are not advanced in value or improved in condition abroad.

ISSUE:

Whether reimported cameras and accessories described above are eligible for duty-free treatment under subheading 9801.00.25, HTSUS.

LAW AND ANALYSIS:

Section 141.2 of the Customs Regulations (19 CFR 141.2) provides that dutiable merchandise imported and afterward exported, even though duty thereon may have been paid on the first importation, is liable to duty on every subsequent importation into the Customs territory of the United States unless exempt by law.

Subheading 9801.00.25, HTSUS, provides for the duty-free treatment of:

[a]rticles, previously imported, with respect to which the duty was paid upon such previous importation if (1) exported within three years after the date of such previous importation, (2) reimported without having advanced in value or improved in condition by any process of manufacture or other means while abroad, (3) reimported for the reason that such articles do not conform to sample or specifications, and (4) reimported by or for the account of the person who imported them into, and exported them from, the United States.

We assume for the purposes of this ruling that paragraphs (1), (2), and (4) are satisfied in this case. In order to qualify for duty-free treatment under

subheading 9801.00.25, HTSUS, there must be some tangible evidence that the returned merchandise does not conform to “sample or specifications.”

The application of this provision is clear where the failure to meet specifications relates to the physical nature of the goods such as a shipment which includes the wrong style number, the wrong size, the wrong color, or defective workmanship. In Headquarters Ruling Letter (“HRL”) 558746, dated January 6, 1995, Customs held that alarm and security equipment which was defective due to mishandling during delivery failed to conform to specification and was entitled to duty-free treatment under subheading 9801.00.25, HTSUS, upon reimportation into the United States. By contrast, in HRL 559298, dated February 7, 1996, Customs held that goods which were returned that physically conformed to contract specifications but which did not comply with other terms of the contract, such as the quantity of the merchandise or timeliness of delivery were not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. In HRL 560421, dated August 20, 1997, Customs held that merchandise reimported for repair but subsequently returned without repair due to the costliness of repair was not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. CBP concluded in this ruling that the importer must be able to submit evidence that the goods were reimported because they do not conform to specifications. In HRL 562057, dated August 27, 2002, CBP held that a vacuum pump reimported because it did not work properly was not eligible for duty-free treatment under subheading 9801.00.25, HTSUS, because no evidence was submitted to establish that the pump was delivered in a defective condition.

The issue presented is whether cameras and accessories reimported for repair, upgrade or exchange would be considered reimported for the reason that such articles do not conform to sample or specifications.

Red.com did not submit evidence to establish that any of the cameras or accessories did not conform to sample or specification. The reimported goods include goods reimported for upgrade or exchange that may conform to sample or specification. Goods that need repair or are exchanged because they are physically defective are covered by this provision where the importer submits appropriate documentation to show physical defect or non-conformance with sample or specification. However, goods that are upgraded or exchanged due to lack of demand or other rationale are not considered to constitute a lack of conformance to sample or specification. Therefore, we find that cameras and accessories reimported for upgrade would not be eligible for duty-free treatment under subheading 9801.00.25, HTSUS. Further, cameras and accessories reimported for repair or exchange are only eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if those goods as exported failed to conform to sample or specification and the importer, upon their return, submits sufficient documentation to demonstrate that the goods do not conform to sample or specification.

HOLDING:

Cameras and accessories reimported for upgrade or exchange due to lack of demand are not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. Cameras and accessories not conforming to sample or specification that are reimported for repair or exchange are eligible for duty-free treatment under subheading 9801.00.25, HTSUS, provided the documentary requirements set forth in 19 CFR 10.8a are satisfied.

EFFECT ON OTHER RULINGS:

NY N069900, dated August 5, 2009, 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 & Trade Facilitation Division


GENERAL NOTICE**19 CFR PART 177****REVOCAION OF ONE RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO
CLASSIFICATION OF SADDLE BLANKETS**

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

ACTION: Revocation of one ruling letter and treatment relating to the classification of saddle blankets.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that CPB is revoking one ruling letter concerning the classification of saddle blankets under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CPB is revoking any treatment previously accorded by CPB to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 46, No. 8, on February 15, 2012. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 15, 2012.

FOR FURTHER INFORMATION CONTACT: Tamar Anolic, Tariff Classification and Marking Branch: (202) 325–0036.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility.**” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), notice proposing to revoke HQ 082167, dated March 28, 1990, was published on February 15, 2012, in Volume 46, Number 8, of the *Customs Bulletin*. CBP received no comments in response to this notice. Although in this notice CBP is specifically referring to HQ 082167, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. This notice covers any rulings on this merchandise that may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should have advised CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substan-

tially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking HQ 082167 and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letter ("HQ") H161715, which is attached to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: July 3, 2012

IEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H161715

June 27, 2012

CLA-2 OT:RR:CTF:TCM H161715 TNA

CATEGORY: Classification

TARIFF NO.: 4201.00.60

MR. PAUL FITZPATRICK
MANAGING DIRECTOR, GLOBAL TRADE MANAGEMENT
MIQ LOGISTICS
20 CENTRAL STREET, SUITE 108
SALEM, MA 01970

RE: Request for Reconsideration of HQ 082167; Tariff Classification of Saddle Blankets

DEAR MR. FITZPATRICK:

This is in response to your request for reconsideration, dated April 11, 2011, made on behalf of Mayatex, Inc. (“Mayatex”), of Headquarters Ruling Letter (“HQ”) 082167, dated March 28, 1990, which pertains to the classification of saddle blankets under the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed HQ 082167 and found it to be in error. For the reasons set forth below, we hereby revoke HQ 082167.

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 HQ 082167 was published in the *Customs Bulletin*, Vol. 46, No. 8, on February 15, 2012. No comments were received in response to this notice.

FACTS:

HQ 082167 does not pertain to a specific article of merchandise, but rather addresses the general classification of saddle blankets of heading 4201, HTSUS. In your request for reconsideration, however, you have identified three styles of hand-woven blankets: the Doubleweave 1340–3, the Durango 1308B-5, and the Durango 1308–3. The Doubleweave 1340–3 measures 32” x 64” and is made of 85 percent Acrylic and 15 percent polyester. The Durango 1308B-5 measures 36” x 68” and the Durango 1308-B measures 32” x 64”; both are made of 90 percent wool and ten percent polyester. Samples of each style have been received and examined by this office.

In HQ 082167, U.S. Customs and Border Protection (“CBP”) stated that blankets exceeding 30 inches by 62 inches would be classified in heading 6301, HTSUS, as a textile product. There, we stated that “without the necessary sales information regarding the ‘principal use’ of your merchandise, we cannot expand the guidelines for classification of saddle blankets to include those blankets measuring over 30 inches by 62 inches.” We also stated that, without a sample of the subject merchandise, we could not advise on classification beyond the heading level, because it was possible for the merchandise to be classified “under provisions dealing with floor coverings, bedding, or textile furnishings, depending on the ‘principal use’ of the particular articles imported. The ‘principal use’ will be determined after consideration of, among other things, its thickness, coarseness, tightness or looseness of weave, and the types of yarns used.” See HQ 082167.

Travelling rugs usually have fringes (generally formed by projecting warp or weft threads), but the edges of blankets are normally preserved by blanket stitching or binding.

The heading includes fabrics in the piece which, by the simple process of cutting along defined lines indicated by the absence of weft threads, may be converted into separate articles having the character of finished blankets or travelling rugs....

The heading **does not include**:

- (a) Specially shaped blankets for covering animals (**heading 42.01**).

In classifying the subject merchandise under heading 6301, HTSUS, HQ 082167 adhered to this office's established position that saddle blankets of heading 4201, HTSUS, cannot exceed 30 by 62 inches "until it can be determined with a reasonable degree of accuracy that merchandise exceeding those measurements is principally used as saddle blankets." See HQ 082167.¹ Upon reconsideration, we note that while saddle blankets might not exceed 30 by 62 inches very often in practice, no maximum size is articulated in the HTSUS or ENs. Accordingly, HQ 082167's restriction of saddle blankets according to their size is unduly restrictive and therefore incorrect.

We note that the two provisions at issue, headings 4201 and 6301, HTSUS, both describe the subject merchandise. As a result, the analysis moves from GRI 1 to GRI 3, which states, in pertinent part:

When, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

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

Heading 4201, HTSUS, is a use provision, while heading 6301, HTSUS, is an *eo nomine* provision. The general rule of customs jurisprudence that "in the absence of legislative intent to the contrary, a product described by both a use provision and an *eo nomine* provision is generally more specifically provided for under the use provision." *Orlando Food Corp. v. United States*, 140 F.3d 1437, 1441 (quoting *United States v. Siemens Am., Inc.*, 68 C.C.P.A. 62, 653 F.2d 471, 477 (CCPA 1981)). However, this rule is not obligatory and only provides a "convenient rule of thumb for resolving issues where the competing provisions are in balance [i.e., equally descriptive]." *United States v. Carl Zeiss*, 195 F.3d at 1380 (1999) (quoting *Seimens Am.*, 653 F.2d at 478 n.6); see also *Totes, Inc. v. United States*, 69 F.3d 495, 500 (Fed. Cir. 1995).

¹ We note that the prior ruling on which HQ 082167 relied for this position was HQ 081285, dated May 24, 1988. Because HQ 081285 was decided under the TSUS, it is not binding on decisions made pursuant to the HTSUS.

Thus, if the subject merchandise is of the class or kind of product principally used for animals, then it will be classified in heading 4201, HTSUS.

With respect to the application of principal use under Additional U.S. Rule of Interpretation 1(a), the courts have provided several factors to apply when determining whether merchandise falls within a particular class or kind of good. They include: (1) the general physical characteristics of the merchandise; (2) the expectation of the ultimate purchasers; (3) the channels of trade in which the merchandise moves; (4) the environment of the sale (e.g. the manner in which the merchandise is advertised and displayed); (5) the usage of the merchandise; (6) the economic practicality of so using the import; and (7) the recognition in the trade of this use. *See United States v. Carborundum Co.*, 63 CCPA 98, 102, 536 F.2d 373, 377 (1976), *cert denied*, 429 U.S. 979 (1976) (“*Carborundum*”).

Mayatex has submitted evidence to show that the subject merchandise is used as a saddle blanket and is used exclusively in the equine industry, such as for trail riding and rodeo events. Mayatex is a saddle blanket manufacturer with over 60 years in the business of handweaving saddle blankets exclusively for the equine industry. The company has submitted links to its catalogue to show how the merchandise is marketed and sold, and has submitted links to the catalogues of other, unrelated retailers, to show how the industry as a whole promotes these products. Furthermore, Mayatex, citing NY D83889, dated November 3, 1998, and NY K84019, dated March 19, 2004, notes that CBP has classified similar merchandise in heading 4201, HTSUS, as saddle blankets based on comparable evidence of principle use. As such, Mayatex argues that its submitted information is sufficient to establish that its blankets are used as saddle blankets, and that as such, should be classified in heading 4201, HTSUS.

The subject blankets are thick, heavy blankets that could well act as padding between a horse and a rider. The Doubleweave 1340-3, in particular, when folded, provides the same level protection as two independent blankets of thinner construction. Furthermore, Mayatex is a recognized seller of saddle blankets. A search of the subject products in its catalogue and in the catalogues of independent retailers shows that the subject blankets are marketed in the “saddle blankets” and “sports and outdoors” categories, among others. *See, e.g.*, http://www.mayatex.com/store/show/1340_Ramrod_Double_weave (last accessed July 7, 2011); http://www.amazon.com/Mayatex-Saddle-Blanket-Durango-Royal/dp/B0002CPGG0/ref=sr_1_3?ie=UTF8&qid=1310149267&sr=8-3 (last accessed July 8, 2011).

Furthermore, not only are the subject blankets sold on Mayatex’s website, they are reviewed and sold by retailers that cater to outdoor sports, and to equine sports in particular. *See, e.g.*, <http://www.smithbrothers.com/ramrod-double-weave-blanket-by-mayatex/p/X3-1982/cn/860/> (last accessed July 7, 2011); <http://www.teamequineusa.com/pads/1308> (last accessed July 8, 2011); http://www.mainlineequine.com//shop/catalog/index.php?manufacturers_id=12&osCsid=5c586a5a75b965050283201983cb397c (last accessed July 8, 2011). Pictures on these sites show it being used as a saddle blanket or pad, and customers that purchase the subject merchandise expect to use it as such.

As for the economic practicality of using this merchandise, Mayatex’s products appear to sell for approximately the same price as competitor’s

products, making it economically practical for them to be used this way. *See, e.g.,* http://www.amazon.com/s/ref=nb_sb_noss?url=search-alias%3Daps&field-keywords=saddle+blankets (last accessed July 8, 2011). Furthermore, a search of “saddle blankets” turns up a number of Mayatex’s products, including the subject merchandise, as well as a number of competitor’s products. *Id.* Thus, the trade recognizes the use of the subject blankets as saddle blankets.

After weighing all of the factors of the *Carborundum* analysis, we find that the subject blankets are principally used as saddle blankets. As a result, the subject blankets are classified as such in heading 4201, HTSUS, as “Saddlery and harness for any animal (including traces, leads, knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material.” Classification in heading 4201, HTSUS, is also consistent with prior CBP rulings. *See, e.g.,* NY D83889; NY K84019.

Lastly, we note that following the issuance of HQ 082167, Mayatex began entering its merchandise under various subheadings of heading 5702, HTSUS, which provides for “Carpets and other textile floor coverings, woven, not tufted or flopped, whether or not made up, including “Kelem”, “Schumacks”, “Karamanie” and similar hand-woven rugs.” Heading 5702, HTSUS, was not under consideration in HQ 082167. Furthermore, pursuant to the analysis laid out above, we do not believe that the subject blankets are classified there.

HOLDING:

Under the authority of GRI 3(a), the Doubleweave 1340–3, the Durango 1308B-5, and the Durango 1308–3 are classified in heading 4201, HTSUS. Specifically, they are classified under subheading 4201.00.60, HTSUS, which provides for: “Saddlery and harness for any animal (including traces, leads, knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material: Other.” The column one general rate of duty is 2.5% *ad valorem*.

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

EFFECT ON OTHER RULINGS:

HQ 082167, dated March 28, 1990, is REVOKED.

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

IEVA K. O’ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

PROPOSED REVOCATION AND MODIFICATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF WORK FOOTWEAR

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

ACTION: Notice of proposed modification of one ruling letter and revocation of one ruling letter and proposed revocation of treatment relating to the tariff classification of work footwear.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (“CBP”) is proposing to modify one ruling and revoke one ruling concerning the tariff classification of work footwear under the Harmonized Tariff Schedule of the United States (“HTSUS”). Comments are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before September 14, 2012.

ADDRESSES: Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 5th floor, 799 9th Street N.W., Washington, D.C., 20229–1179, and may be inspected during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0188.

FOR FURTHER INFORMATION CONTACT: Robert Shervette, Office of International Trade, Tariff Classification and Marking Branch, at (202) 325–0274.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter “Title VI”), become effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary

compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to revoke one ruling letter and to modify one ruling letter pertaining to the tariff classification of certain footwear. Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter ("NY") NY N039199, dated October 23, 2008, set forth as "Attachment A" and to the modification of NY N039198, dated October 23, 2008, set forth as "Attachment B", this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

In NY N039198 and NY N039199, CBP classified footwear articles under subheading 6403.99.6075, HTSUSA, as "[f]ootwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather: [o]ther footwear: [o]ther: [o]ther: [o]ther: [o]ther: [f]or men, youths and boys: [o]ther: [o]ther: [f]or men: [o]ther" and under sub-

heading 6403.99.9065, HTSUSA, as “[f]ootwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather: [o]ther footwear: [o]ther: [o]ther: [o]ther: [o]ther: [f]or other persons: [v]alued over \$2.50/pair: [o]ther: [o]ther: [f]or women: [o]ther.” Upon our review of these two rulings, we have determined that the merchandise described in the rulings are properly classified under subheading 6403.99.6025, HTSUSA, as “[f]ootwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather: [o]ther footwear: [o]ther: [o]ther: [o]ther: [o]ther: [f]or men, youths and boys: [w]ork footwear” or under subheading 6403.99.9015, HTSUSA, as “[f]ootwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather: [o]ther footwear: [o]ther: [o]ther: [o]ther: [f]or other persons: [v]alued over \$2.50/pair: [w]ork footwear.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N039199 and to modify NY N039198, and to revoke or modify any other ruling not specifically identified to reflect the proper classification of the subject merchandise according to the analysis contained in proposed Headquarters Ruling Letter (“HQ”) H050119, set forth as “Attachment C” to this document. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: July 3, 2012

IEVA K. O’ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N039199

October 23, 2008

CLA-2-64:RR:SP:247

CATEGORY: Classification

TARIFF NO.: 6403.99.6075, 6403.99.9065

Ms. ALICIA BALDARAS
SEARS HOLDINGS CORPORATION
3333 BEVERLY ROAD, A3-366B
HOFFMAN ESTATES, IL 60179

RE: The tariff classification of footwear from China.

DEAR Ms. BALDARAS:

In your letter dated September 18, 2008, you requested a tariff classification ruling for four footwear items identified as Style # 65131, 65005, 65118 and 65021. All styles have slip-resistant outer soles of rubber/plastics.

You state that style 65005 (men's) and styles 65131 and 65118 (women's) have uppers of 51 percent leather and 49 percent polyurethane (rubber/plastics) material. You also state that style 65021 (men's) has an upper of 100 percent leather. You state that the shoes have the characteristics of "work" footwear and request classification under subheading 9902.22.52, Harmonized Tariff Schedule of the United States, (HTSUS). As you know, classification of footwear in Chapter 64, HTSUS, requires identification of the constituent material having the greatest external surface area of the upper. This ruling is being issued based upon the accuracy of your component material percentage figure of 51 percent leather. This information may be verified upon importation.

Chapter 64, HTSUS, Statistical Note 1. (a) provides that for the purposes of this chapter the expression "work footwear" encompasses, in addition to footwear having a metal toe-cap, specialized footwear for men or for women that: has outer soles of rubber or plastics, and is of a kind designed for use by persons employed in occupations, such as those related to the agricultural, construction, industrial, public safety and transportation sectors, that are not conducive to the use of casual, dress, or similar lightweight footwear, and has special features to protect against hazards in the workplace (e.g. resistance to chemicals, compression, grease, oil, penetration, slippage, or static buildup). Work footwear does not cover: sports footwear, tennis shoes, basketball shoes, gym shoes, training shoes and the like; footwear designed to be worn over other footwear; footwear with open toes or open heels; or **footwear, except footwear of heading 6401, of the slip-on type or other footwear that is held to the foot without the use of laces or a combination of laces and hooks or other fasteners.**

HTSUS subheading 9902.22.52 provides a temporary free rate of duty for work footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather, not covering the ankle (provided for in subheading 6403.99.60 or 6403.99.90 entered or withdrawn from warehouse on or before 12/31/2009).

For the purposes of this ruling, the submitted samples are all below-the-ankle, lace up shoes with outer soles of rubber/plastics and uppers of predominantly leather. Aside from the "slip-resistant" outer sole, this office finds no evidence that the subject footwear is designed specifically for occupations

such as agricultural, construction, industrial, public safety or transportation sectors. In this regard, the subject footwear is not “work footwear” as described in the note.

The applicable subheading for Style 65005 and 65021 will be 6403.99.6075, HTSUS, which provides for footwear: with outer soles of rubber/plastics and uppers of predominantly leather: other: not covering the ankle: other: for men. The rate of duty will be 8.5 percent ad valorem.

The applicable subheading for Style 65131 and 65118 will be 6403.99.9065, HTSUS, which provides for footwear: with outer soles of rubber/plastics and uppers of predominantly leather: other: not covering the ankle: other: for women. The rate of duty will be 10 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).

The submitted samples are not marked with the country of origin. Therefore, if imported as is, they will not meet the country of origin marking requirements of 19 U.S.C. 1304. Accordingly, the footwear would be considered not legally marked under the provisions of 19 C.F.R. 134.11 which states, “every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article.”

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, Richard Foley at 646-733-3042.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

N039198

October 23, 2008

CLA-2-64:RR:SP:247

CATEGORY: Classification

TARIFF NO.: 6403.99.6075

Ms. ALICIA BALDARAS
SEARS HOLDINGS CORPORATION
3333 BEVERLY ROAD, A3-366B
HOFFMAN ESTATES, IL 60179

RE: The tariff classification of footwear from China.

DEAR Ms. BALDARAS:

In your letter dated September 18, 2008, you requested a tariff classification ruling for four men's footwear items identified as Style # KM-0112, 65025, 65029 and 65120. All four styles have slip-resistant outer soles of rubber/plastics.

You state that style KM-0112 and 65025 have uppers of 51 percent leather and 49 percent polyurethane (rubber/plastics) material, while style 65029 and 65120 have uppers of 100 percent leather. You state that the shoes have the characteristics of "work" footwear and request classification under subheading 9902.22.52, Harmonized Tariff Schedule of the United States, (HTSUS). As you know, classification of footwear in Chapter 64, HTSUS, requires identification of the constituent material having the greatest external surface area of the upper. This ruling is being issued based upon the accuracy of your component material percentage figure of 51 percent leather. This information may be verified upon importation.

Chapter 64, HTSUS, Statistical Note 1. (a) provides that for the purposes of this chapter the expression "work footwear" encompasses, in addition to footwear having a metal toe-cap, specialized footwear for men or for women that: has outer soles of rubber or plastics, and is of a kind designed for use by persons employed in occupations, such as those related to the agricultural, construction, industrial, public safety and transportation sectors, that are not conducive to the use of casual, dress, or similar lightweight footwear, and has special features to protect against hazards in the workplace (e.g. resistance to chemicals, compression, grease, oil, penetration, slippage, or static buildup). Work footwear does not cover: sports footwear, tennis shoes, basketball shoes, gym shoes, training shoes and the like; footwear designed to be worn over other footwear; footwear with open toes or open heels; or footwear, except footwear of heading 6401, of the slip-on type or other footwear that is held to the foot without the use of laces or a combination of laces and hooks or other fasteners.

HTSUS subheading 9902.22.52 provides a temporary free rate of duty for work footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather, not covering the ankle (provided for in subheading 6403.99.60 or 6403.99.90 entered or withdrawn from warehouse on or before 12/31/2009).

The submitted samples of style # KM-0112, 65025 and 65120 are all below-the-ankle, lace up shoes with outer soles of rubber/plastics and uppers of predominantly leather. Style 65029 is a slip-on shoe. Aside from the "slip-resistant" outer sole, this office finds no evidence that the subject foot-

wear is designed specifically for occupations such as agricultural, construction, industrial, public safety or transportation sectors. In this regard, the subject footwear is not “work footwear” as described in the note.

The applicable subheading for Style # KM-0112, 65025, 65029 and 65120 will be 6403.99.6075, HTSUS, which provides for footwear: with outer soles of rubber/plastics and uppers of predominantly leather: other: not covering the ankle: other: for men. The rate of duty will be 8.5 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 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).

The submitted samples of Style 65029 and 65120 are not marked with the country of origin. Therefore, if imported as is, they will not meet the country of origin marking requirements of 19 U.S.C. 1304. Accordingly, the footwear would be considered not legally marked under the provisions of 19 C.F.R. 134.11 which states, “every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article.”

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, Richard Foley at 646-733-3042.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT C]

HQ H050119

CLA-2 OT: RR: CTF: TCM H050119 RES

CATEGORY: Classification

TARIFF NO.: 6403.99.6025; 6403.99.9015

ROBERT J. LEO

MEEKS, SHEPPARD, LEO & PILLSBURY

355 LEXINGTON AVENUE, 14TH FLOOR

NEW YORK, NY 10017

RE: Modification of New York Ruling N039198, dated October 23, 2008; Revocation of New York Ruling N039199, dated October 23, 2008; Classification of Work Footwear.

DEAR MR. LEO:

This is in response to your letter dated January 21, 2009, on behalf of Sears Holding Corporation (“Sears”) for reconsideration of New York Ruling Letters (“NY”) N039198 and N039199, both issued on October 23, 2008, regarding the classification, under the Harmonized Tariff Schedule of the United States Annotated (“HTSUSA”), of certain footwear. The merchandise in these rulings were classified under subheadings 6403.99.6075 and 6403.99.9065, HTSUSA. We have reviewed NY N039198 and NY N039199 and determined that they are incorrect.

FACTS:

In NY N039198, the articles were described as follows:

[S]tyle[s] KM-0112 and 65025 have uppers of 51 percent leather and 49 percent polyurethane (rubber/plastics) material, while style[s] 65029 and 65120 have uppers of 100 percent leather. . . .

The submitted samples of style # KM-0112, 65025 and 65120 are all below-the-ankle, lace up shoes with outer soles of rubber/plastics and uppers of predominantly leather. Style 65029 is a slip-on shoe. Aside from the “slip-resistant” outer sole, this office finds no evidence that the subject footwear is designed specifically for occupations such as agricultural, construction, industrial, public safety or transportation sectors. In this regard, the subject footwear is not “work footwear” as described in the note [Statistical Note 1(a) to Chapter 64, HTSUSA].

Also, style 65025 has a steel toe. CBP classified styles KM-0112, 65025, and 65120 under subheading 6403.99.6075, HTSUSA, as “[f]ootwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather: [o]ther footwear: [o]ther: [o]ther: [o]ther: [o]ther: [f]or men, youths and boys: [o]ther: [o]ther: [f]or men: [o]ther.”

In NY N039199, the articles were described as follows:

[S]tyle 65005 (men’s) and styles 65131 and 65118 (women’s) have uppers of 51 percent leather and 49 percent polyurethane (rubber/plastics) material. [S]tyle 65021 (men’s) has an upper of 100 percent leather. . . .

* * * * *

For the purposes of this ruling, the submitted samples are all below-the-ankle, lace up shoes with outer soles of rubber/plastics and uppers of

predominantly leather. Aside from the “slip-resistant” outer sole, this office finds no evidence that the subject footwear is designed specifically for occupations such as agricultural, construction, industrial, public safety or transportation sectors. In this regard, the subject footwear is not “work footwear” as described in the note [Statistical Note 1(a) of Chapter 64, HTSUSA].

CBP classified styles 65005 and 65021 under subheading 6403.99.6075, HTSUSA, and classified styles 65131 and 65118 under subheading 6403.99.9065, HTSUSA, as “[f]ootwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather: [o]ther footwear: [o]ther: [o]ther: [o]ther: [f]or other persons: [v]alued over \$2.50/pair: [o]ther: [o]ther: [f]or women: [o]ther.”

The seven styles of footwear under reconsideration are the following style numbers: 65005, 65021, 65025, 65118, 65120, 65131, and KM-0112. Style number 65029 in NY N039198 is not at issue in this reconsideration. All of these styles are sold under Sears’s SAFETRAX[®] brand of footwear. This brand of footwear is generally sold on the Sears and Kmart websites under the “Work & Safety” sections.

Sears claims that all the styles at issue have the characteristics of “work” footwear and should be classified accordingly. As evidence of its claim, Sears has provided product samples, a marketing brochure it sends to businesses, and a customer list on a Compact Disc (“CD”) consisting of companies in the restaurant and food service industry.

ISSUE:

Whether the footwear constitutes work footwear as defined in Statistical Note 1(a) of Chapter 64, HTSUSA.

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 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 be applied in order.

GRI 6 provides that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related subheading notes and, *mutatis mutandis*, to GRIs 1 through 6.

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

The HTSUSA headings under consideration in this case are as follows:

6403	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather:
	* * *

Other Footwear:	
* * *	
6403.99	Other:
	Other:
	Other:
6403.99.60	For men, youths and boys:
6403.99.6025	Work Footwear
	Other:
	Other:
	For men:
6403.99.6075	Other
	* * *
	For other persons:
6403.99.90	Valued over \$2.50/pair:
6403.99.9015	Work footwear
	Other:
	* * *
	Other:
	For Women:
6403.99.9065	Other

Chapter 64, HTSUSA, Statistical Note 1(a) provides in pertinent part:

1. For the Purposes of this chapter:

(a) The expression “*work footwear*” encompasses, in addition to footwear having a metal toe-cap, specialized footwear for men or for women that:

- has outer soles of rubber or plastics, and
- is of a kind designed for use by persons employed in occupations, such as those related to the agricultural, construction, industrial, public safety and transportation sectors, that are not conducive to the use of casual, dress, or similar lightweight footwear, and
- has special features to protect against hazards in the workplace (e.g., resistance to chemicals, compression, grease, oil, penetration, slippage, or static-buildup)

Work footwear does not cover:

- sports footwear, tennis shoes, basketball shoes, gym shoes, training shoes and the like;
- foot designed to be worn over other footwear;
- footwear with open toes or open heels; or

- footwear, except footwear of heading 6401, of the slip-on type or other footwear that is held to the foot without the use of laces or a combination of laces and hooks or other fasteners

The importer is not disputing the underlying classification of the footwear to the national eight-digit level in subheadings 6403.99.60 and 6403.99.90, HTSUS. Rather, the importer disputes the classification of the footwear articles at the ten-digit level in subheadings 6403.99.6075 and 6403.99.9065, HTSUSA, and claims that the footwear is classified as work footwear under subheadings 6403.99.6025 and 6403.99.9015, HTSUSA. The importer asserts that the footwear meets the definition of work footwear as defined in Statistical Note 1(a) of Chapter 64, HTSUSA. The importer cites as support for its position the following CBP rulings: NY N028675, dated May 30, 2008; NY N028676, dated June 2, 2008; NY N012971, dated July 3, 2007; NY N006180, dated March 1, 2007; NY N004747, January 4, 2007.

In NY N012971, the merchandise at issue consisted of five styles of footwear with outer soles of rubber or plastics and uppers of leather. The outsoles had a special oil and slip resistant technology. One style had a strap and buckle closure, one a slide fastener, and the remaining three styles had lace-tie closure systems. The importer claimed that the footwear was designed and marketed to be used by people employed in restaurant, public safety, transportation, and other service occupations and provided a restaurant and hospitality work footwear catalogue selling the styles at issue in NY N012971 as support for their claim. Pursuant to Statistical Note 1(a) of Chapter 64, HTSUSA, CBP classified all 5 styles in NY N012971 as work footwear under either subheading 6403.99.6025 or subheading 6403.99.9015, HTSUSA.

In NY N028676 (which involved the same importer as in NY N012971), the merchandise at issue consisted of two styles of footwear with outer soles of rubber or plastics and uppers of leather. The outsoles had a special oil and slip resistant technology. The women's styles were designed for and marketed to women in the restaurant and other service industries. The men's styles were designed for and marketed to men in the public safety, transportation, and service sectors. The importer provided a restaurant and hospitality work footwear catalogue selling the styles at issue in NY N028676. Pursuant to Statistical Note 1(a) of Chapter 64, HTSUSA, CBP classified both styles in NY N028676 as work footwear under either subheading 6403.99.6025 or subheading 6403.99.9015, HTSUSA.

In NY N006180, the articles at issue were five styles of footwear with outer soles of rubber or plastics and uppers of leather. The footwear styles had either a lace-up or a hook & loop closure system and all featured a specially designed outer sole described as being oil and slip resistant. The articles were marketed to be used by people employed in the medical and restaurant industries. Pursuant to Statistical Note 1(a) of Chapter 64, HTSUSA, CBP classified all 5 styles in NY N006180 as work footwear under either subheading 6403.99.6025 or subheading 6403.99.9015, HTSUSA.

In NY N006716, the article at issue was described as a men's law enforcement work shoe with a heavy duty, oil and slip resistant rubber/plastic sole, and a leather upper that did not cover the ankle. The shoe also had a steel shank, an upper with water proofing protection, EVA plastic filled cutout zones in the heel and forefoot, and a "dual-density" polyurethane midsole for

long wearing comfort. The importer provided a work footwear catalogue marketing and selling the article for use by people employed in the law enforcement and/or the public safety industry. Pursuant to Statistical Note 1(a) of Chapter 64, HTSUSA, CBP classified the article as work footwear under subheading 6403.99.6025, HTSUSA.

Three of the above rulings show that CBP has interpreted Statistical Note 1(a) to Chapter 64, HTSUSA, as also covering footwear for persons employed in the food service industry.

In NY N004747, the three articles at issue were of the same SAFETRAX[®] line of footwear considered in NY N039198 and N039199, but different style numbers. These articles of footwear were described as “low cut work shoes with outer soles of rubber or plastics and uppers of leather” with two of the styles being lace-up shoes and a third described as being a slip-on. The footwear also featured a “specially designed, relatively rigid, outer sole that is described as slip and oil resistant” and the footwear was to be used by employees in food processing plants, restaurants, supermarkets, hospitals, and other industrial sites. Pursuant to Statistical Note 1(a) of Chapter 64, HTSUSA, CBP classified the two lace-up styles as work footwear under subheadings 6403.99.6025, and 6403.99.9015, HTSUSA. The slip-on style was not classified as work footwear.

In regard to the styles at issue here, Sears asserts that they are all designed and marketed to be used by people employed in food processing plants, restaurants, supermarkets, hospitals, other service sector businesses, and other industrial sites. To support their claims, Sears provided sales and marketing literature that is sent to potential customers in the food industry marketing their SAFETRAX[®] line of footwear for use by employees in the food service and restaurant businesses and a list of customers that use this line of footwear for their employees. The sales and marketing literature is the same as that for the styles classified in NY N004747. All of these customers are major businesses in the food industry sector.

In light of the evidence provided by Sears and an examination of samples of the footwear, these articles meet the requirements enumerated in Statistical Note 1(a) of Chapter 64, HTSUSA, to be considered work footwear. The footwear has outer soles of rubber or plastics, marketing and sales materials substantiate that the footwear was designed for use by food service industry employees, and the footwear has special oil and slip resistance features to protect against slippage and other hazards. In addition, the footwear styles do not have any of the features listed in Statistical Note 1(a) that work footwear does not have.

Furthermore, the finding that the footwear styles at issue here are work footwear based on the evidence provided and on the features of the articles is also congruent with how CBP has classified similar articles in NY N012971, NY N028676, NY N006180, and NY N006716. In addition, the fact that the styles at issue are marketed in the same manner as the similar styles of the SAFETRAX[®] classified as work footwear in NY N004747 is highly supportive of Sears’s claim that the styles at issue here are classifiable as work footwear.

Therefore, the SAFETRAX[®] line of footwear styles at issue in NY N039198 and NY N039199 are classifiable as work footwear. Style numbers KM-0112, 65205, 65120, 65005, and 65021 are classified under subheading 6403.99.6025, HTSUSA, as work footwear for men. Style numbers 65131 and

65118 are classified under subheading 6403.99.9015, HTSUSA, as work footwear valued over \$2.50/pair.

HOLDING:

By application of GRI 1, GRI 6, and Statistical Note 1(a) of Chapter 64, HTSUSA, the articles with style numbers KM-0112, 65025, 65120, 65005, and 65021 are classified under subheading 6403.99.6025, HTSUSA, as “[f]ootwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather: [o]ther footwear: [o]ther: [o]ther: [o]ther: [o]ther: [f]or men, youths and boys: [w]ork footwear,” with a 2012 column one rate of duty of 8.5 percent, *ad valorem*.

By application of GRI 1, GRI 6, and Statistical Note 1(a) of Chapter 64, HTSUSA, the articles with style numbers 65131 and 65118 are classified under subheading 6403.99.9015, HTSUSA, as “[f]ootwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather: [o]ther footwear: [o]ther: [o]ther: [o]ther: [o]ther: [f]or other persons: [v]alued over \$2.50/pair: [w]ork footwear,” with a 2012 column one rate of duty of 10 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 www.usitc.gov/tata/hts/.

EFFECTS ON OTHER RULINGS:

NY N039198, dated October 23, 2008, is modified.

NY N039199, dated October 23, 2008, is revoked.

Sincerely,

MYLES B. HARMON,

Director

Commercial & Trade Facilitation Division

**REVOCATION OF A RULING LETTER RELATING TO THE
CLASSIFICATION AND COUNTRY OF ORIGIN MARKING
OF A RUBBER HOSE ASSEMBLY FOR VACUUM
CLEANERS AND MODIFICATION OF A RULING LETTER
RELATING TO THE CLASSIFICATION OF A PLASTIC
HOSE ASSEMBLY FOR VACUUM CLEANERS**

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

ACTION: Notice of revocation of a ruling letter concerning the classification and country of origin marking of a rubber hose assembly for vacuum cleaners and modification of a ruling letter relating to the classification of a plastic hose assembly for vacuum cleaners.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625 (c)), this notice advises interested parties that U.S. Customs and Border Protection (“CBP”) is revoking one ruling letter

relating to the classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) and country of origin marking of a rubber hose assembly for vacuum cleaners, and modifying one ruling letter relating to the classification of a plastic hose assembly for vacuum cleaners. CBP is also revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published on June 23, 2010, in the *Customs Bulletin*, Volume 44, No. 26. No comments were received in response to this notice.

DATES: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 15, 2012.

FOR FURTHER INFORMATION CONTACT: Nerissa Hamilton-vom Baur, Tariff Classification and Marking Branch, at (202) 325-0104.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. § 1625 (c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is revoking a ruling letter pertaining to the tariff classification and country of origin marking of a rubber hose assembly for vacuum cleaners and modifying a ruling letter pertain-

ing to the classification of a plastic hose assembly for vacuum cleaners. Although in this notice, CBP is specifically referring to the revocation of Headquarters Ruling Letter (“HQ”) 735542, dated March 21, 1994 [rubber hose assembly], and the modification of New York Ruling Letter (“NY”) K85099, dated May 5, 2004 [plastic hose assembly], this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., 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 notice period.

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

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking HQ 735542 and any other ruling not specifically identified, to reflect the proper classification and country of origin marking of the rubber hose assembly according to the analysis contained in proposed HQ H024323, set forth as Attachment A to this document. CBP is also modifying NY K85099 any other ruling not specifically identified, to reflect the proper classification of the plastic hose assembly according to the analysis contained in proposed HQ H024320, set forth as Attachment B. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: June 28, 2012

IEVA K. O'ROURKE
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

HQ H024323

June 28, 2012

CLA-2 OT:RR:CTF:TCM H024323HvB

CATEGORY: Classification/Marking

TARIFF NO.: 4009.12.00

MR. ED BAKER
A.N. DERINGER, INC.
30 W. SERVICE ROAD
CHAMPLAIN, NY 12919

RE: Revocation of Headquarters Ruling Letter 735542; Classification and Country of Origin Marking of a Rubber Hose Assembly for a Vacuum Cleaner

DEAR MR. BAKER:

This is in reference to Headquarters Ruling Letter (“HQ”) 735542, dated March 21, 1994, issued to you on behalf of Tiger-Vac, Inc., regarding the tariff classification and country of origin marking requirements of a rubber hose assembly for vacuum cleaners. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the merchandise in heading 8509, Harmonized Tariff Schedule of the United States (“HTSUS”), as a “part” of a vacuum cleaner, and determined that it was a product of Canada. We have reviewed HQ 735542 and found it to be incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation was published on June 23, 2010, in the *Customs Bulletin*, Volume 44, No. 26. No comments were received in response to this notice.

FACTS:

In HQ 735542, CBP described the merchandise as follows:

The article in question is a hose assembly for a vacuum cleaner, item #75A, P/N 381120. This article is assembled in Canada from:

1. U.S. origin Flexible Neoprene Hose (item #74D, P/N 381180)
2. U.S. origin Stainless Steel Male Connector (item #60, P/N 381147)
3. Metal Female Adaptor (item #73, P/N 381144) assembled in Canada from:
 - i. metal adaptor (Taiwanese origin) and
 - ii. aluminum tubing (Canadian origin).

In that ruling, CBP concluded that the hose assembly was a product of Canada for marking purposes because it satisfied the NAFTA tariff shiftrule specified in section 102.20(p) of the CBP Regulations (19 C.F.R. §102.20(p)) for subheading 8509.90.15, HTSUS, which requires “[a] change to subheading 8509.90 from any other heading except heading 8501 when resulting from simple assembly.” CBP explained:

The foreign materials incorporated in the hose assembly are the Taiwanese-origin metal adapter, the U.S.-origin hose imported into Canada in 50 foot coils, and the U.S.-origin stainless steel male connector for one end of the hose. None of these materials is classified in heading

8509 or 8501. The U.S.-origin flexible neoprene hose is classified in heading 4006 or 4009. The exact classification is dependent upon whether the tube is vulcanized. The U.S.-origin stainless steel male connector and Taiwanese-origin base metal adaptor appear to be classified in heading 7326. Accordingly, each foreign material incorporated in the imported hoses undergoes an applicable change in tariff classification in Canada and the country of origin of the finished product for marking purposes is Canada.

- (i) Whether the rubber hose assembly is classified in heading 4009, HTSUS, as a rubber hose with fittings, or in heading 8508, HTSUS, as a “part” of a vacuum cleaner?
- (ii) Whether the rubber hose assembly was properly marked as a product of Canada?

LAW AND ANALYSIS:

I. CLASSIFICATION

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

The 2012 HTSUS provisions under consideration are as follows:

4009	Tubes, pipes and hoses, of vulcanized rubber other than hard rubber, with or without their fittings (for example, joints, elbows, flanges):
8508	Vacuum cleaners; parts thereof:

Legal Note 2 to Section XVI, HTSUS, provides:

Subject to note 1 to this section, note 1 to chapter 84 and to note 1 of chapter 85, parts of machines ... are to be classified according to the following rules:

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

- (c) All other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529, or 8538 as appropriate or, failing that, in heading 8487 or 8548.

Legal Note 2(d) to Chapter 40, HTSUS, provides:

This Chapter does not cover:

- (d) Mechanical and electrical appliances or parts thereof of Section XVI (including electrical goods of all kinds), of hard rubber.

Additional U.S. Rule of Interpretation 1(c) provides:

In the absence of special language or context which otherwise requires –

- (c) A provision for parts of an article covers products solely or principally used as a part of such articles but a provision for “parts” or “parts and accessories” shall not prevail over a specific provision for such part or accessory; ...

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While not legally binding 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 General ENs to Chapter 40, HTSUS, provide, in relevant part:

Hard rubber, (for example, ebonite) is obtained by vulcanizing rubber with a high proportion of sulfur to the point where it becomes practically inflexible and inelastic.

The ENs to heading 8508, HTSUS, provide, in relevant part:

EQUIPMENT PRESENTED WITH THE APPLIANCES OF THIS HEADING

Vacuum cleaners of this heading may be presented with auxiliary devices (accessories) (for brushing, polishing, insecticide spraying etc.) or interchangeable parts (carpet devices, rotary brushed, multi-function suction heads, etc.). Such an appliance is classified here together with the parts and accessories presented with it, **provided** they are of a kind commonly used with the appliance. **When presented separately, they are classified by reference to their nature.** (Emphasis added).

PARTS

Subject to the provisions regarding the classification of parts (See General Explanatory Notes to Section XVI), parts of appliances of this heading are also classified here.

In HQ 735542, CBP classified the rubber hose assembly in heading 8509, specifically in subheading 8509.90.15, HTSUS, as “Electromechanical domestic appliances, with self-contained electric motor; parts thereof: Parts: Parts of Vacuum Cleaners: Other.” As a threshold matter, we note that effective February 3, 2007, parts of vacuum cleaners are classified in heading 8508,

HTSUS, which provides for “Vacuum cleaners; parts thereof.”¹ Accordingly, we will discuss heading 8508, HTSUS, as the applicable provision for parts of vacuum cleaners.

The courts have considered the nature of “parts” under the HTSUS and two distinct though not inconsistent tests have resulted. *See Bauerhin Technologies Limited Partnership, & John V. Carr & Son, Inc. v. United States*, 110 F.3d 774 (Fed. Cir. 1997), citing *United States v. Willoughby Camera Stores, Inc.*, 21 C.C.P.A. 322 (1933) and *United States v. Pompeo*, 43 C.C.P.A. 9 (1955).

The court in *Bauerhin* explained:

As set forth in *Willoughby Camera*, “an integral, constituent, or component part, without which the article to which it is to be joined could not function as such article” is surely a part for classification purposes. 221 C.C.P.A. at 324. However that test is not exclusive. *Willoughby Camera* does not address the situation where an imported item is dedicated solely for use with the article. *Pompeo* addresses that scenario and states that such an item can also be classified as a part.

Reconciling *Willoughby Camera* with *Pompeo*, we conclude that where, as here, an imported item is dedicated solely for use with another article and is not a separate and distinct commercial entity, *Pompeo* is a closer precedent and *Willoughby Camera* does not apply [...] Under *Pompeo*, an imported item dedicated solely for use with another article is a “part” of that article within the meaning of the HTSUS.

Applying *Bauerhin*, we find that the rubber hose assembly is a “part” because it is dedicated for use solely with a vacuum cleaner. However, under Additional U.S. Rule of Interpretation 1(c), HTSUS, even though the assembly is a part of vacuum cleaner, in the absence of special language or context which otherwise requires, a specific provision for this part will prevail.

Note 2(b) to Section XVI, HTSUS, provides that parts not included in any of the headings of Chapters 84 or 85, HTSUS, suitable for use solely or principally with a particular kind of machine, are classified with that machine.² The Note does not apply, however, when one of the competing provisions falls outside of Section XVI. *See, e.g.* HQ 966963, dated April 30, 2004 (holding that plastic screw caps used to cover the oil filters of diesel engine trucks are classified in heading 3923, as plastic caps, not as parts of oil filters). Therefore, in this case, because one of the competing provisions falls outside of Section XVI (i.e., heading 4009, HTSUS), Note 2(b) does not supersede Additional U.S. Rule of Interpretation 1(c), HTSUS.

¹ Pursuant to title 19 United States Code, Section 3005, the Harmonized Tariff Schedule of the United States was amended to reflect changes recommended by the World Customs Organization. The proclaimed changes are effective for goods entered or withdrawn from warehouse for consumption on or after February 3, 2007. *See* Presidential Proclamation 8097, 72 FR 453, Volume 72, No. 2 (January 4, 2007).

² Note 5 to Section XVI, HTSUS, reads: “For purposes of these notes, the expression “*machine*” means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of chapter 84 or 85.”

Heading 4009, HTSUS, provides for “Tubes, pipes and hoses, of vulcanized rubber other than hard rubber, with or without their fittings (for example, joints, elbows, flanges).” The instant merchandise consists of a neoprene (a flexible synthetic rubber) hose with metal fittings. The hose is not of “hard rubber.” See General ENs to Chapter 40. Accordingly, by application of GRI 1 and Additional U.S. Rule of Interpretation 1(c), HTSUS, we find that the rubber hose assembly is more specifically provided in heading 4009, HTSUS. See HQ 089296, dated August 21, 1991 (rubber hoses that were parts of forklift trucks classified as hoses in heading 4009, HTSUS).

II. MARKING

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

Part 134 of the CBP Regulations (19 C.F.R. § 134) implements the country of origin marking requirements and exceptions of 19 U.S.C. § 1304. Section 134.1(b) of the CBP Regulations (19 C.F.R. § 134.1(b)), defines “country of origin” as the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the “country of origin” within the meaning of this part; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin.

Section 134.1(j) of the CBP Regulations (19 C.F.R. § 134.1(j)), provides that the “NAFTA Marking Rules” are the rules promulgated for purposes of determining whether a good is a good of a NAFTA country. Section 134.1(g) of the CBP Regulations (19 C.F.R. § 134.1(g)), defines a “good of a NAFTA country” as an article for which the country of origin is Canada, Mexico or the United States as determined under the NAFTA Marking Rules, set forth at 19 C.F.R. §102.

Section 102.11(a) of the CBP Regulations (19 C.F.R. § 102.11(a)), sets forth the required hierarchy under the NAFTA Marking Rules for determining country of origin for marking purposes. This section states that the country of origin of a good is the country in which:

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

Section 102.1(g) of the CBP Regulations (19 C.F.R. § 102.1(g)), defines a good wholly obtained or produced as including “A good produced in that country exclusively from goods referred to in paragraphs (g)(1) through (g)(10) of this section or from their derivatives, at any stage of production.”

The rubber hose assembly at issue is neither wholly obtained or produced in Canada, nor produced exclusively from foreign materials. It is assembled in Canada from components manufactured in the United States (hose and steel male connector), Taiwan (metal female adaptor), and Canada (aluminum tubing). Accordingly, we must determine whether, under § 102.11(a)(3), each foreign material incorporated in the assembly undergoes the applicable change in tariff classification set out in § 102.20 in Canada.

Section 102.1(e) of the CBP Regulations (19 C.F.R. § 102.1(e)), defines “foreign material” as “a material whose country of origin as determined under these rules is not the same as the country in which the good is produced.” As determined above, the imported hose assembly is classified in heading 4009, HTSUS. Section 102.20(g) of the CBP Regulations (19 C.F.R. § 102.20(g)), the applicable tariff shift rule for this heading, requires “[a] change to heading 4006 through 4010 from any other heading, including another heading within that group.”

In this case, the foreign materials incorporated in the rubber hose assembly are the U.S.-origin rubber hose [heading 4009, HTSUS], the U.S.-origin steel male connector [heading 7326, HTSUS], and the Taiwanese-origin metal female adapter [heading 7326, HTSUS]. The rubber hose does not undergo the applicable change in tariff classification set out in § 102.20(g) in Canada in that it remains in heading 4009, HTSUS. Accordingly, the country of origin of the good may not be determined in accordance with that provision.

As the country of origin cannot be determined by application of § 102.20(a), we turn to section 102.11(b) of the CBP Regulations (19 C.F.R. § 102(b)) which states, in part:

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

(1) The country of origin of the good is the country or countries of the origin of the single material that imparts the essential character of the good;

* * *

Section 102.18 of the CBP Regulations (19 C.F.R. § 102.18) provides, in part:

(b) (1) For purposes of identifying the material that imparts the essential character to a good under § 102.11, the only materials that shall be taken into consideration are those domestic or foreign materials that are classified in a tariff provision from which a change in tariff classification is not allowed under the § 102.20 specific rule or other requirements applicable to the good.

* * *

Applying §102(b) and §102.18, we find that the U.S.-originating rubber hose imparts the essential character of the rubber hose assembly. As such, the country of origin for marking purposes is the United States. Inasmuch as the

marking requirements of 19 U.S.C. § 1304 are applicable only to articles of “foreign origin,” the assembly need not be marked with a reference to the United States origin upon importation into the United States. *See, e.g.*, HQ H015361, dated November 2, 2007.

Note, however, that the NAFTA Preference Override, set forth in 19 C.F.R. §102.19, is applicable to the subject merchandise. § 102.19(b) states:

(b) If, under any other provision of this part, the country of origin of a good which is originating ... is determined to be the United States and that good has been exported from, and returned to, the United States after having been advanced in value or improved in condition in another NAFTA country, the country of origin of such good for Customs duty purposes is the last NAFTA country in which that good was advanced in value or improved in condition before its return to the United States.

The U.S.-originating rubber hose was exported from, and returned to, the U.S. after having been advanced in value in Canada. Namely, it was fitted with steel connectors and adapters for use with a vacuum cleaner. Accordingly, for CBP duty purposes, the country of origin of the merchandise is Canada.

HOLDING:

By application of GRI 1 and Additional U.S. Rule 1(c), HTSUS, the rubber hose assembly is classified in heading 4009, specifically in subheading 4009.12.00, HTSUS, which provides for: “Tubes, pipes and hoses, of vulcanized rubber other than hard rubber, with or without their fittings (for example, joints, elbows, flanges): Not reinforced or otherwise combined with other materials: With fittings.” The 2012 column one, special rate of duty is: Free.

Pursuant to section 102.11(b) of the CBP Regulations, for marking purposes, the country of origin of the rubber hose assembly is the United States. Claims of domestic origin are a matter under the jurisdiction of the Federal Trade Commission (“FTC”). Therefore, should you wish to identify any of the articles as “Made in the USA”, we recommend that you contact that agency at the following address: Federal Trade Commission, Division of Enforcement, 600 Pennsylvania Avenue, N.W. Washington, D.C. 20580.

Pursuant to section 102.19(b) of the CBP Regulations, for duty purposes, the country of origin of the merchandise is Canada.

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

EFFECT ON OTHER RULINGS:

This ruling revokes HQ 735542, dated March 21, 1994.

IEVA K. O’ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

[ATTACHMENT B]

HQ H024320

June 28, 2012

CLA-2 OT:RR:CTF:TCM H024320 HvB

CATEGORY: Classification

TARIFF NO.: 3917.33.00

Ms. FRANCINE RAMSEY
HAMPTON DIRECT, INC.
P.O. Box 1199
WILLISTON, VT 050495

RE: Modification of New York Ruling Letter K85099; Classification of a Plastic Hose Assembly for Vacuum Cleaners

DEAR MS. RAMSEY:

This is in reference to New York Ruling Letter (“NY”) K85099, dated May 5, 2004, issued to Hampton Direct, Inc., concerning the classification of can sealers, a plastic measuring scoop and clip, outdoor air conditioner covers, and a plastic hose assembly for vacuum cleaners. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the plastic vacuum hose assembly in heading 8509, Harmonized Tariff Schedule of the United States (“HTSUS”), as a “part” of a vacuum cleaner. We have reviewed NY K85099 as it pertains to the classification of the plastic hose assembly and found it to be incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published on June 23, 2010, in the *Customs Bulletin*, Volume 44, No. 26. No comments were received in response to this notice.

FACTS:

In NY K85099, we described the subject merchandise as follows:

Product number four is identified as [the] vacuum clean flex, item number 25570. This product consists of a polyvinyl chloride (PVC) hose, a nylon brush and a connector and nozzle made of polypropylene. The flexible vacuum hose extends to clean hard to reach areas and it fits most standard vacuum cleaners. The extension adds an extra 22” to [the] vacuum hose.

ISSUE:

What is the correct classification of the plastic hose assembly under the HTSUS?

LAW AND ANALYSIS:

The classification of merchandise under the HTSUS is governed by the General Rules of Interpretation (“GRIs”). GRI 1 provides, in part, that the classification of goods shall be determined according to 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 then be applied, in order.

GRI 3 provides, in pertinent part:

When by application of rule 2(b) or for any other reason, goods are, *prima facie* classifiable under two or more headings, classification shall be effected as follows:

* * * *

- (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

The 2012 HTSUS headings under consideration are as follows:

3917	Tubes, pipes and hoses and fittings therefor (for example, joints, elbows, flanges), of plastics:
8508	Vacuum cleaners; parts thereof:
9603	Brooms, brushes (including brushes constituting parts of machines, appliances or vehicles), hand-operated mechanical floor sweepers, not motorized, mops and feather dusters; prepared knots and tufts for broom or brush making; paint pads and rollers; squeegees (other than roller squeegees):

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the HTSUS. While not legally binding or 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 (August 23, 1989).

EN (X) to GRI 3(b) provides, in relevant part:

For the purpose of this Rule, the term ‘goods put up in sets for retail sale’ shall be taken to mean goods which:

- (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings . . . ;
- (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and
- (c) are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).

In NY K85099, CBP applied GRI 1 to classify the subject plastic vacuum hose assembly in heading 8509, specifically in subheading 8509.90.1530, HTSUS, the provision in effect in 2006 for “Electromechanical domestic appliances, with self-contained electric motor; parts thereof: Parts: Parts of Vacuum Cleaners: Other: Of wet/dry vacuum cleaners.” As a threshold matter, we note that effective February 3, 2007, parts of vacuum cleaners are classified in heading 8508, HTSUS, which provides for “Vacuum cleaners; parts thereof.”¹

¹ Pursuant to title 19 United States Code, Section 3005, the Harmonized Tariff Schedule of the United States was amended to reflect changes recommended by the World Customs Organization. The proclaimed changes are effective for goods entered or withdrawn from warehouse for consumption on or after February 3, 2007. *See* Presidential Proclamation 8097, 72 FR 453, Volume 72, No. 2 (January 4, 2007).

The plastic hose assembly is a kit that consists of three components that are, *prima facie*, classifiable in different headings. If imported separately, the PVC hose and its fittings i.e., the polypropylene connector and nozzle, would be classified in heading 3917, HTSUS [hoses and fittings therefor, of plastics]. The nylon brush would be classified in heading 9603, HTSUS [brushes]. Since no single heading describes the merchandise in its entirety, the kit cannot be classified by application of GRI 1. See, e.g., HQ 967620, dated November 23, 2005. We turn instead to GRI 3.

Applying GRI 3(b), we find that the hose assembly satisfies the criteria of a “set” for classification purposes. See EN (X) to GRI 3(b). First, it consists of at least two different articles that are classified in different headings, as explained above. Second, all of the items are packaged together when imported to meet a particular need, i.e., extending a vacuum cleaner’s reach. Third, the assembly is put up in a manner suitable for sale directly to users without repacking.

GRI 3(b) directs that a “set” is classified in the heading appropriate to the component that imparts its essential character. EN (VII) to GRI 3(b) provides, in relevant part:

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.

In this case, we conclude that the 22-inch PVC hose provides the essential character of the hose assembly because, by extending the vacuum cleaner’s reach, it enables the user to vacuum in hard to reach places. The nylon brush simply contributes to that use by gathering small particles on the surface being cleaned. Accordingly, the merchandise is classified in the same provision as the PVC hose, heading 3917, HTSUS.

HOLDING:

By application of GRI 3(b), the plastic hose assembly is classified as a “set” in heading 3917, HTSUS. It is specifically provided for in subheading 3917.33.00, HTSUS, which provides for “Tubes, pipes and hoses and fittings therefore (for example, joints, elbows, flanges), of plastics: Other tubes, pipes and hoses: Other, not reinforced or otherwise combined with other materials, with fittings.” The 2012 column one, general rate of duty is: 3.1% *ad valorem*.

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

EFFECT ON OTHER RULINGS:

This ruling modifies NY K85099, dated May 5, 2004.

IEVA K. O’ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

AGENCY INFORMATION COLLECTION ACTIVITIES:**Exportation of Used Self-Propelled Vehicles**

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

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

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Exportation of Used Self-Propelled Vehicles. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before September 25, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

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

Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Exportation of Used-Propelled Vehicles.

OMB Number: 1651-0054.

Form Number: None.

Abstract: CBP regulations require an individual attempting to export a used self propelled vehicle to furnish documentation to CBP, at the port of export, the vehicle and documentation describing the vehicle, which includes the Vehicle Identification Number (VIN) or, if the vehicle does not have a VIN, the product identification number. Exportation of a vehicle will be permitted only upon compliance with these requirements. This requirement does not apply to vehicles that were entered into the United States under an in-bond procedure, a carnet or temporary importation bond. The required documentation includes, but is not limited to, a Certificate of Title or a Salvage Title, the VIN, a Manufacturers Statement of Origin, etc. CBP will accept originals or certified copies of Certificate of Title. The purpose of this information is to help ensure that stolen vehicles or vehicles associated with other criminal activity are not exported.

Collection of this information is authorized by 19 U.S.C.1627a which provides CBP with authority to impose export reporting requirements on all used self-propelled vehicles and by Title IV, Section 401 of the Anti-Car Theft Act of 1992, 19 U.S.C. 1646(c) which requires all persons or entities exporting a used self-propelled vehicle to provide to the CBP, at least 72 hours prior to export, the VIN and proof of ownership of each automobile. This information collection is provided for by 19 CFR Part 192. Further guidance regarding these requirements is provided at: http://www.cbp.gov/xp/cgov/trade/basic_trade/export_docs/motor_vehicle.xml.

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

Type of Review: Extension (without change).

Affected Public: Individuals and Businesses.

Estimated Number of Respondents: 750,000.

Estimated Number of Total Annual Responses: 750,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 125,000.

Dated: July 24, 2012.

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