

U.S. Customs and Border Protection



MODIFICATION OF A RULING LETTER AND REVOCATION OF FOUR RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF WOODEN STORAGE BENCHES

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

ACTION: Notice of modification of a ruling letter, revocation of four ruling letters and revocation of treatment relating to the tariff classification of wooden storage benches.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying a ruling letter and revoking four ruling letters relating to the tariff classification of wooden storage benches under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 48, No. 18, on May 7, 2014. 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EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 6, 2014.

FOR FURTHER INFORMATION CONTACT: Beth Jenior, Tariff Classification and Marking Branch, at (202) 325–0347.

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, a notice was published in the *Customs Bulletin*, Volume 48, No. 18, on May 7, 2014, proposing to modify NY N121618, dated September 21, 2010, and to revoke NY R00927, dated October 14, 2004, NY N064700, dated June 23, 2009, NY N122505, dated October 4, 2010, and NY N234965, dated November 30, 2012, in which CBP determined that the subject wooden storage benches were classified as bedroom furniture in subheading 9403.50.90, HTSUS. No comments were received in response to the notice.

As stated in the proposed notice, this action will cover any rulings on the subject 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 ruling identified above. 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 comment period.

Similarly, pursuant to section 625 (c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during 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 this final decision.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying NY N121618 and revoking NY R00927, NY N064700, NY N122505, and NY N234965, in order to reflect the proper classification of the wooden

storage benches as seats in subheading 9401.69.80, HTSUS, according to the analysis contained in HQ H132496, set forth as an attachment 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 11, 2014

IEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H132496

July 11, 2014

CLA-2 OT:RR:CTF:TCM H132496 EGJ

CATEGORY: Classification

TARIFF NO.: 9401.69.80

DARLENE DiBERNARDO
SENIOR TRADE ADVISOR
DERINGER LOGISTICS CONSULTING GROUP
173 WEST SERVICE ROAD
CHAMPLAIN, NY 12919

RE: Modification of NY N121618 and Revocation of NY R00927, NY N064700, NY N122505, and NY N234965: Classification of Wooden Storage Benches

DEAR Ms. DiBERNARDO:

In New York Ruling Letter (NY) N121618, dated September 21, 2010, U.S. Customs and Border Protection (CBP) responded to the ruling request you submitted on behalf of Vermont Precision Woodworks (Vermont). You requested a tariff classification ruling under the Harmonized Tariff Schedule of the United States (HTSUS) for four pieces of wooden furniture. One of those pieces of furniture was a wooden storage bench.

In the original ruling, CBP classified the bench under subheading 9403.50.90, HTSUS, which provides for wooden articles of bedroom furniture. We have reviewed NY N121618 and we have found the ruling to be in error with regard to the bench. For the reasons set forth below, we hereby modify NY N121618 and revoke four other ruling letters on substantially similar merchandise: NY R00927, dated October 14, 2004, NY N064700, dated June 23, 2009, NY N122505, dated October 4, 2010, and NY N234965, dated November 30, 2012.

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 modify NY N121618 and to revoke NY R00927, NY N064700, NY N122505, and NY N234965 was published on May 7, 2014, in Volume 48, Number 18, of the *Customs Bulletin*. No comments were received in response to the notice.

FACTS:

In NY N121618, CBP described the bench as a wooden table with one lower shelf. It measures 36 inches wide by 14 inches deep by 18 inches high. The lower shelf is concealed by two small, side by side doors which open outwards. Each door has a small circular metallic knob. In your ruling request, you included an image of the bench in a residential foyer. That image is provided below:

9403.60 Other wooden furniture ...

* * *

Legal Note 2 to Chapter 94 states that:

2. The articles (other than parts) referred to in headings 9401 to 9403 are to be classified in those headings only if they are designed for placing on the floor or ground.

The following are, however, to be classified in the above-mentioned headings even if they are designed to be hung, to be fixed to the wall or to stand one on the other:

- (a) Cupboards, bookcases, other shelved furniture and unit furniture;
- (b) Seats and beds.

* * *

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

EN 94.01 states, in pertinent part, that:

[T]his heading covers all seats (including those for vehicles, provided that they comply with the conditions prescribed in Note 2 to this Chapter), for example:

Lounge chairs, arm-chairs, folding chairs, deck chairs, infants' high chairs and children's seats designed to be hung on the back of other seats (including vehicle seats), grandfather chairs, *benches*, couches (including those with electrical heating), settees, sofas, ottomans and the like, stools (such as piano stools, draughtsmen's stools, typists' stools, and dual purpose stool-steps), seats which incorporate a sound system and are suitable for use with video game consoles and machines, television or satellite receivers, as well as with DVD, music CD, MP3 or video cassette players (emphasis added) ...

* * *

EN 94.03 states, in pertinent part, that:

This heading covers furniture and parts thereof, **not covered** by the previous headings. It includes furniture for general use (e.g., cupboards, show-cases, tables, telephone stands, writing-desks, escritoirs, book-cases, and other shelved furniture, etc.), and also furniture for special uses (emphasis added).

* * *

Applying GRI 1, the first issue is whether NY N121618 properly classified the bench in heading 9403, HTSUS, as "other furniture." Under Legal Note

2 to Chapter 94, an article of furniture can be classified in headings 9401–9403, HTSUS, if it is designed to be placed upon the ground or the floor. Legal Note 2 also sets forth a narrow list of exceptions to this rule. The subject bench is an article of furniture designed for placement on the floor and is therefore classifiable within these headings.

Heading 9401, HTSUS, provides for seats whereas heading 9403, HTSUS, provides for “other furniture.” The bench is a seat; therefore it is classifiable under heading 9401, HTSUS. There is no need to examine heading 9403, HTSUS, as it only covers goods which are not classified in earlier headings. In addition, EN 94.01 states that the heading includes benches. Finally, CBP has consistently classified storage benches in heading 9401, HTSUS, as seats. *See* HQ 950186, dated November 18, 1991, NY J85273, dated June 5, 2003 and NY L81848, dated January 5, 2005. For all of the aforementioned reasons, the bench is properly classified in heading 9401, HTSUS, as a seat.

The merchandise in question may be subject to antidumping duties or countervailing duties. *See* Notice of Final Determination of Sales at Less Than Fair Value in the Investigation of Wooden Bedroom Furniture from the People’s Republic of China, 69 Fed. Reg. 221, 67313 - 67320 (November 17, 2004). We note that the International Trade Administration is not necessarily bound by a country of origin or classification determination issued by CBP, with regard to the scope of antidumping orders or countervailing duties. Written decisions regarding the scope of AD/CVD orders are issued by the Import Administration in the Department of Commerce and are separate from tariff classification and origin rulings issued by Customs and Border Protection. You can contact them at <http://www.trade.gov/ia/> (click on “Contact Us”). For your information, you can view a list of current AD/CVD cases at the United States International Trade Commission website at <http://www.usitc.gov> (click on “Antidumping and countervailing duty”), and you can search AD/CVD deposit and liquidation messages using ACE, the system of record for AD/CVD messages, or the AD/CVD Search tool available at <http://adcvd.cbp.gov/index.asp?ac=home>.

HOLDING:

By application of GRI 1 (Legal Note 2 to Chapter 94), the wooden storage bench is classifiable under subheading 9401.69.80, HTSUS, which provides, in pertinent part, for “Seats ...: other seats, with wooden frames: other: other...” The 2014 column one, general rate of duty is free.

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

EFFECT ON OTHER RULINGS:

NY N121618, dated September 21, 2010, is hereby modified.

NY R00927, dated October 14, 2004, NY N064700, dated June 23, 2009, NY N122505, dated October 4, 2010, and NY N234965, dated November 30, 2012 are hereby revoked.

Sincerely,

IEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**REVOCATION OF FIVE RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF WOODEN SHELVING UNITS
WITH BASKETS**

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

ACTION: Notice of revocation of five ruling letters and revocation of treatment relating to the tariff classification of wooden shelving units with baskets.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this Notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking five ruling letters relating to the tariff classification of wooden shelving units with baskets under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 48, No. 17, on April 30, 2014. 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 6, 2014.

FOR FURTHER INFORMATION CONTACT: Beth Jenior, Tariff Classification and Marking Branch: (202) 325–0347.

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)), a notice was published in the Customs Bulletin, Volume 48, No. 17, on April 30, 2014, proposing to revoke New York Ruling Letter (NY) N218739, dated June 20, 2012, NY N117616, dated August 23, 2010, NY N087304, dated December 21, 2009, NY N084602, dated December 8, 2009, and NY N063740, dated June 12, 2009, in which CBP determined that the subject wooden shelving units with baskets were classified in subheading 9403.50, HTSUS, which provides for “Other furniture and parts thereof: wooden furniture of a kind used in the bedroom ...” No comments were received in response to this notice.

As stated in the proposed notice, this action will cover any rulings on the subject 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 rulings identified above. 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 comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. §1625(c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during 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 this final decision.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N218739, NY N117616, NY N087304, NY N084602, and NY N063740, in order to reflect the proper classification of wooden shelving units with baskets under 9403.50, HTSUS, which provides for “Other furniture and parts thereof: wooden furniture of a kind used in the bedroom ...”, according to the analysis contained in HQ H240196, set forth as an attachment.

In accordance with 19 U.S.C. §1625(c)(1), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: July 11, 2014

IEVA K. O’ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H240196

July 11, 2014

CLA-2 OT:RR:CTF:TCM H240196 EGJ

CATEGORY: Classification

TARIFF NO.: 9403.60.80

RUBY CHAN

CUSTOMS COMPLIANCE ANALYST

WILLIAMS-SONOMA, INC.

151 UNION STREET

SAN FRANCISCO, CA 94111

RE: Revocation of NY N218739, NY N117616, NY N087304, NY N084602 and NY N063740: Classification of Wooden Shelving Units with Storage Baskets

DEAR Ms. CHAN:

This is in reference to New York Ruling Letter (NY) N218739, dated June 20, 2012, issued to you concerning the tariff classification of the Benchwright Ladder (SKU 8633315). In NY N218739, U.S. Customs and Border Protection (CBP) classified the subject merchandise in subheading 9403.50, HT-SUS, which provides for "Other furniture and parts thereof: wooden furniture of a kind used in the bedroom ..." We have reviewed NY N218739 and find it to be in error. For the reasons set forth below, we hereby revoke NY N218739 and four other rulings on similar wooden shelving units with storage baskets: NY N117616, dated August 23, 2010¹, NY N087304, dated December 21, 2009², NY N084602, dated December 8, 2009³, and NY N063740, dated June 12, 2009⁴.

¹ The subject merchandise consists of two sizes of storage units. Each unit consists of a floor standing wooden frame with compartments for either three or six woven baskets. The wooden frame is comprised of untreated and unpainted lumber and is sold by a gardening supply store. The wooden frame has no side or back panels. The ruling request states that the storage units are for use in a mudroom, bathroom, kitchen or den and are perfect for miscellaneous items or small vegetables and fruits.

² The ruling describes five different storage units, but there was only sufficient information to issue a tariff classification decision on three of them. The three subject storage units each consist of a wooden frame with compartments for woven baskets. Each storage unit measures between 25.5 and 29.5 inches tall. The ruling request states that these are all accent tables designed for use in a living room or entryway. Some of the baskets are specifically designed to store DVDs, CDs or other media.

³ The four subject storage units each consist of a wooden frame with compartments for woven baskets. Each storage unit measures between 22 and 40 inches tall. The ruling request states that these units are intended for storage of household items in living rooms, laundry rooms or as general storage. The subject merchandise will be sold at Garden Ridge stores, which is a retail chain of home décor stores. On the Garden Ridge website, these storage units are pictured for sale with baskets, tubs and bins in the housewares/home organization department. See www.gardenridge.com.

⁴ The two subject storage units each consist of a wooden frame with compartments for woven baskets. One storage unit measures 21.5 inches tall and holds two storage baskets. The second unit measures 39.8 inches tall and holds four storage baskets. The subject merchandise will be sold at Garden Ridge stores, which is a retail chain of home décor stores. On the Garden Ridge website, these storage units are pictured for sale with baskets, tubs and bins in the housewares/home organization department. See www.gardenridge.com.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed revocation was published on April 30, 2014, in the *Customs Bulletin*, Volume 48, No. 17. CBP received no comments in response to this notice.

FACTS:

The Benchwright Ladder is a floor standing, wooden shelving unit used for storage. It resembles a stepladder and has four shelves of different sizes. Each shelf resembles a rung on the ladder, with the smallest shelf at the top and the largest at the bottom. Unlike ladder rungs, however, each shelf covers the entire gap between the ladder's four legs. Each shelf is a flat piece of wood with no lip or raised outer edge. The shelving unit measures 17.75 inches long by 18 inches wide by 58 inches high.

On each of the four shelves there is a steel wire storage basket with a cotton/polyester liner. The size of each basket matches the size of each shelf, and is not permanently affixed to the wood. According to your submission, each component contributes the following percentage to the total cost of the unit: the wooden shelving is 70%, the steel wire baskets are 15% and the basket liners are 15%. All of the components are packaged together for retail sale. A picture of the subject merchandise is provided below.



According to your ruling request, the subject merchandise will be sold through the Pottery Barn retail stores, the catalog and the website. According to the Pottery Barn website, the Benchwright Ladder is part of the Benchwright collection.⁵ Other items in the Benchwright collection include a single sink console, a double sink console, two medicine cabinets and a floor-standing mirror. All of the items have the same rustic wood appearance as the Benchwright Ladder. Pictures of the Benchwright Ladder show it filled with items such as towels, soaps and sponges. All of the pictures show the subject merchandise located in or near a bathroom.

ISSUE:

What is the tariff classification of the Benchwright Ladder?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. Under GRI 6, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to GRIs 1 through 5.

GRI 3(b) provides as follows:

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 HTSUS headings and subheadings under consideration are the following:

4421	Other articles of wood:
4421.90	Other:
*	* *
6307	Other made up articles, including dress patterns:
6307.90	Other:
*	* *

⁵ See <http://www.potterybarn.com/products/benchwright-bath-basket-floor-storage-ladder/>.

7323	Table, kitchen or other household articles and parts thereof, of iron or steel ...:
	Other:
7323.99	Other:
*	* *
9403	Other furniture and parts thereof:
9403.30	Wooden furniture of a kind used in offices:
9403.40	Wooden furniture of a kind used in the kitchen:
9403.50	Wooden furniture of a kind used in the bedroom:
9403.60	Other wooden furniture:
*	* *

Note 1(o) to Chapter 44 provides as follows:

1. This chapter does not cover:

...

(o) Articles of chapter 94 (for example, furniture, lamps and lighting fittings, prefabricated buildings)...

* * *

Note 2 to Chapter 94 provides as follows:

2. The articles (other than parts) referred to in headings 9401 to 9403 are to be classified in those headings only if they are designed for placing on the floor or ground.

The following are, however, to be classified in the above-mentioned headings even if they are designed to be hung, to be fixed to the wall or to stand one on the other.

- (a) Cupboards, bookcases, other shelved furniture (including single shelves presented with supports for fixing them to the wall) and unit furniture;
- (b) Seats and beds.

* * *

Additional U.S. Rule of Interpretation 1(a), HTSUS, provides that:

1. In the absence of special language or context which otherwise requires:
 - (a) a tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use.

* * *

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

EN to GRI 3(b) states, in pertinent part:

RULE 3 (b)

(VI) This second method relates only to:

- (i) Mixtures.
- (ii) Composite goods consisting of different materials.
- (iii) Composite goods consisting of different components.
- (iv) Goods put up in sets for retail sales.

It applies only if Rule 3 (a) fails.

(VII) In all these cases the goods are to be classified as if they consisted of the material or component **which gives them their essential character**, insofar as this criterion is applicable.

(VIII) 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.

(IX) For the purposes of this Rule, composite goods made up of different components shall be taken to mean not only those in which the components are attached to each other to form a practically inseparable whole but also those with separable components, **provided** these components are adapted one to the other and are mutually complementary and that together they form a whole which would not normally be offered for sale in separate parts.

Examples of the latter category of goods are:

- (1) Ashtrays consisting of a stand incorporating a removable ash bowl.
- (2) Household spice racks consisting of a specially designed frame (usually of wood) and an appropriate number of empty spice jars of suitable shape and size.

As a general rule, the components of these composite goods are put up in a common packing.

* * *

EN 94.03 provides, in pertinent part, as follows:

This heading covers furniture and parts thereof, **not covered** by the previous headings. It includes furniture for general use (e.g., cupboards, show-cases, tables, telephone stands, writing-desks, escritaires, book-cases, and other shelved furniture (including single shelves presented with supports for fixing them to the wall), etc.), and also furniture for special uses ...

The heading **does not include**:

(b) Ladders and steps, trestles, carpenters' benches and the like not having the character of furniture; these are classified according to their constituent material (**headings 44.21, 73.26** , etc.) ...

* * *

The Benchwright Ladder is comprised of three components: the wooden ladder, the steel baskets and the textile basket liners. Each of these components is comprised of a different material. The steel baskets are classified in heading 7323, HTSUS, as household articles of steel. *See* NY N199238, dated January 13, 2012, NY N093425, dated February 18, 2010, and NY N021024, dated December 20, 2007 (all classifying metal baskets in heading 7323, HTSUS). The textile basket liners are classified in heading 6307, HTSUS, as other made up articles. NY J86047, dated July 21, 2003, NY E80041, dated June 18, 1999, and NY D81472, dated August 26, 1998 (all classifying textile basket liners in heading 6307, HTSUS).

CBP has issued rulings which classify wooden ladders in heading 4421, HTSUS, as other articles of wood. *See, e.g.* NY N195648, dated January 4, 2012, and NY N056136, dated April 24, 2009. However, Note 1(o) to Chapter 44 excludes furniture of Chapter 94. If the wooden ladder is classifiable as furniture of heading 9403, HTSUS, it cannot be classified as other articles of wood in heading 4421, HTSUS.

Headings 9401 to 9403, HTSUS, provide for furniture. Note 2 to Chapter 94 describes the merchandise covered by the term "furniture." Note 2 states that "the articles ... referred to in headings 9401 to 9403 are to be classified in those headings only if they are designed for placing on the floor or ground." Further, Note 2 states that "cupboards, bookcases, other shelved furniture...seats and beds" are classifiable as furniture even if they are "designed to be hung, to be fixed to the wall or to stand one on the other."

In addition to Note 2 to Chapter 94, the U.S. Court of Customs Appeals (predecessor to the U.S. Court of Appeals for the Federal Circuit) defined furniture in *Morimura Bros. v. United States*, 2 Ct. Cust. Appls. 181, 182, T.D. 31941 (1911) (*Morimura Bros.*), wherein the court stated:

The term 'furniture' as ordinarily used may mean that with which anything is furnished, supplied, or equipped. House furniture has a restricted signification, however, which does not cover everything with which a house may be furnished, supplied, or equipped. House furniture, in these modern times, has come to denote those articles of household utility which were formerly made of wood and which are designed for the personal use, convenience and comfort of the dweller. *Id. cited with approval by Furniture Import Corp. v. United States*, 56 Cust. Ct. 125, 131-132 (1966); *see also The Pomeroy Collection, Ltd. v. United States*, 893 F.Supp. 2d 1269, 1284-1285 (Ct. Int'l Trade 2013).

EN 94.03(b) states that ladders which do not have the character of furniture are not classifiable as furniture. However, the instant wooden ladder matches the description set forth in Note 2 to Chapter 94 because it is designed for placing on the floor or the ground. Moreover, it is similar to cupboards, bookcases and other shelved furniture because it includes four shelves rather than ladder rungs. Also, the wooden ladder satisfies the

definition of furniture set forth in *Morimura Bros.* because it is an article of household utility, designed for the personal use, convenience and comfort of the dweller. 2 Ct. Cust. Appls. at 182. Namely, the wooden ladder is a shelved storage unit for towels, toiletries and other bathroom articles. For these reasons, the wooden ladder is an article of furniture classifiable in heading 9403, HTSUS. As such, Note 1(o) precludes the wooden ladder from classification in Chapter 44.

The three components of the Benchwright Ladder are the ladder, the metal baskets and the textile liners. These are packaged and sold together as a storage unit at retail sale. Each component is comprised of a different constituent material and is classified under a different heading. No single heading describes the complete unit. As such, we look to GRI 3 for the classification of the Benchwright Ladder.

EN(IX) to GRI 3(b) states that “composite goods” means goods made up of different components that are adapted one to the other and are mutually complementary. Together, they form a whole which would not normally be offered for sale in separate parts. EN(IX)(2) to GRI 3(b) provides a spice rack as an example of a composite good. The spice rack consists of a frame and spice jars of suitable shape and size. Similarly, the Benchwright Ladder consists of a frame which holds metal baskets of suitable shape and size. The components of the Benchwright Ladder are adapted to each other and are mutually complementary. Each component contributes to the Benchwright Ladder’s storage function. As such, the Benchwright Ladder is a composite good which must be classified using GRI 3(b).

GRI 3(b) states that mixtures, composite goods and retail sets shall be classified as if they consisted of the component which gives them their essential character. In order to identify a composite good’s essential character, the U.S. Court of International Trade (CIT) has applied the factors listed in the ENs to GRI 3(b), which are “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.” *The Home Depot v. United States*, 427 F. Supp. 2d 1278, 1293 (Ct. Int’l Trade 2006). With regard to the role of the component which imparts the essential character, the court has stated it is “that which is indispensable to the structure, core or condition [of the retail set].” *Id. citing A.N. Deringer, Inc. v. United States*, 66 Cust. Ct. 378, 383 (1971).

Applying the aforementioned factors, the wooden ladder has the greatest bulk and weight of the three components. The wooden ladder also has the greatest value as it comprises 70% of the Benchwright Ladder’s total value. However, the merchandise consists of four metal baskets and four textile liners but only one wooden ladder. Looking to the role of the Benchwright Ladder, it is marketed for both storage and organization. All three of the components contribute to these two functions. The wooden ladder provides the shelving, and the baskets and liners form storage containers. Taking all of the factors into account, the wooden ladder imparts the essential character to the Benchwright Ladder because it has the greatest bulk, weight and value while also contributing to the overall function.

According to GRI 6, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings. The wooden ladder is classified in heading 9403, HTSUS, as furniture. Under heading 9403, HTSUS, there are four separate subheadings for

wooden furniture. Subheadings 9403.30, HTSUS, 9403.40, HTSUS, and 9403.50, HTSUS, each provide for wooden furniture of a kind used in offices, kitchens and bedrooms, respectively. Subheading 9403.60, HTSUS, is a residual provision for other wooden furniture. If the ladder is not classifiable in subheadings 9403.30 through 9403.50, HTSUS, it will be classified in subheading 9403.60, HTUS.

In *The Pomeroy Collection, Ltd. v. United States*, 559 F.Supp. 2d 1374, 1394 n. 23 (Ct. Int'l trade 2008), the CIT described different types of HTSUS provisions as follows:

A “use” provision is “a provision describing articles by the manner in which they are used as opposed to by name,” while an *eo nomine* provision is one “in which an item is identified by name.” *Len-Ron Mfg. Co. v. United States*, 334 F.3d 1304, 1308 (Fed. Cir. 2003). And there are two types of “use” provisions -- “actual use” and “principal (formerly known as “chief”) use.” An “actual use” provision is satisfied only if “such use is intended at the time of importation, the goods are so used and proof thereof is furnished within 3 years after the date the goods are entered.” See Additional U.S Rule of Interpretation (“ARI”) 1(b) (*quoted in Clarendon Mktg., Inc. v. United States*, 144 F.3d 1464, 1467 (Fed. Cir. 1998)). In contrast, a “principal use” provision functions essentially “as a controlling legal label, in the sense, that even if a particular import is proven to be actually used inconsistently with its principal use, the import is nevertheless classified according to its principal use.” *Clarendon Mktg.*, 144 F.3d at 1467.

In *Primal Lite, Inc. v. United States*, 22 C.I.T. 697, 700 (1998), the CIT described one method to identify principal use provisions as follows:

The use of the term “of a kind” is nothing more than a statement of the traditional standard for classifying importation[s] by their use, namely, that it need not necessarily be the actual use of the importation but is the use of the kind of merchandise to which the importation belongs.

Subheadings 9403.30, HTSUS, 9403.40, HTSUS, and 9403.50, HTSUS, each use the term “of a kind.” As such, these subheadings are principal use provisions. Under Additional U.S. Rule of Interpretation 1(a) (AUSR 1(a)), tariff classification under a principal use provision must be determined in accordance with the use in the United States of that class or kind to which the imported goods belong.

Thus, in order to be classified as wooden furniture of a kind used in offices, kitchens or bedrooms, the wooden ladder must belong to the same kind or class of goods as such furniture. In *United States v. Carborundum Co.*, 536 F.2d 373, 377 (CCPA 1976), the U.S. Court of Customs and Patent Appeals stated that in order to determine whether an article is included in a particular class or kind of merchandise, the court must consider a variety of factors, including: (1) the general physical characteristics of the merchandise; (2) the channels, class or kind of trade in which the merchandise moves (where the merchandise is sold); (3) the expectation of the ultimate purchasers; (4) the environment of the sale (i.e., accompanying accessories and marketing); (5) usage, if any, in the same manner as merchandise which defines the class; (6) the economic practicality of so using the import; and (7) the recognition in the

trade of this use. *Id.* While these factors were developed under the Tariff Schedule of the United States (predecessor to the HTSUS), the courts have also applied them under the HTSUS. *See, e.g. Minnetonka*, 110 F. Supp. 2d 1020, 1027; *see also Aromont USA, Inc. v. United States*, 671 F.3d 1310 (Fed. Cir. 2012), *Essex Manufacturing, Inc. v. United States*, 30 C.I.T. 1 (2006).

In NY N218739, we classified the Benchwright Ladder as wooden furniture of a kind used in the bedroom under subheading 9403.50, HTSUS. To support this classification, we must apply the *Carborundum* factors and determine that the Benchwright Ladder is of the same class or kind of goods as bedroom furniture. First, we will examine the physical characteristics of the merchandise. We note that the wooden ladder is a shelving unit designed to look like a rustic ladder. It is designed to accommodate wire baskets of suitable shapes and sizes. Unlike bedroom dresser drawers, the baskets are completely open across the top. As such, the contents of the baskets are in plain view. Standard bedroom furniture typically features closed drawers to hide contents from view. Additionally, the Benchwright Ladder is too tall for use as a bedside table.

Next, with regard to channels of trade, we note that the Pottery Barn's website only pictures the Benchwright ladder in or near a bathroom. The Benchwright line of merchandise also includes medicine cabinets, sink consoles, a floor-length mirror, side tables and a storage tower. The advertising on the Pottery Barn's website depicts the wooden ladder full of towels, soaps and toiletries, though we note that the storage compartments are not limited in what they can hold of a certain size and weight.

With regard to the sales environment, the Pottery Barn store sells furniture which is suitable for many different rooms in the home. The Benchwright line of furniture is pictured in advertising in the bathroom and the living room as general storage furniture. For instance, the Benchwright Tower, a companion piece to the subject ladder, is also a tall shelving unit pictured with baskets on its wooden shelves. In the Pottery Barn website advertisement, the Benchwright Tower is situated next to a home entertainment system in a living room, while the instant ladder is pictured in a bathroom. Hence, the Benchwright Ladder, one amongst several pieces of furniture in the Benchwright line, is suitable for use for general storage and home organization in many rooms of the home.

Regarding economic practicality, the bedroom dressers on the Pottery Barn website cost approximately \$700 or higher. Bookcases and other modular storage furniture are listed at prices ranging between \$100 and \$400. The Benchwright Ladder is marketed for retail sale at \$299. As such, the Benchwright Ladder is similar in cost to general storage furniture, as opposed to bedroom storage furniture. Taking all of these factors into account, the evidence simply does not show the Benchwright Ladder to be of the same class or kind of goods used in bedrooms, which is a necessary condition for classification in subheading 9403.50, HTSUS.

As the Benchwright Ladder is sold for general home storage, it is not principally used in kitchens, offices or bedrooms. As such, the ladder is classified in residual subheading 9403.60, HTSUS, which provides for "other" wooden furniture. As the wooden ladder imparts the essential character to the entire storage unit, the subject merchandise is classified in subheading 9403.60, HTSUS. This decision is consistent with other CBP rulings which classify wooden storage units with baskets in subheading 9403.60, HTSUS.

See, e.g. NY N064537, dated June 22, 2009, NY R02873, dated November 30, 2005, and NY H89412, dated March 21, 2002.

The merchandise in question may be subject to antidumping duties or countervailing duties. We note that the International Trade Administration is not necessarily bound by a country of origin or classification determination issued by CBP, with regard to the scope of antidumping orders or countervailing duties. Written decisions regarding the scope of AD/CVD orders are issued by the Import Administration in the Department of Commerce and are separate from tariff classification and origin rulings issued by Customs and Border Protection. You can contact them at <http://www.trade.gov/ia/> (click on "Contact Us"). For your information, you can view a list of current AD/CVD cases at the United States International Trade Commission website at <http://www.usitc.gov> (click on "Antidumping and countervailing duty investigations"), and you can search AD/CVD deposit and liquidation messages using ACE, the system of record for AD/CVD messages, or the AD/CVD Search tool at <http://adcdvd.cbp.gov/index.asp?ac=home>.

HOLDING:

By operation of GRI 1 (Note 1(o) to Chapter 44 and Note 2 to Chapter 94), GRI 3(b), GRI 6 and AUSR 1(a), the Benchwright Ladder is classified in subheading 9403.60.80, HTSUS, which provides for "Other furniture and parts thereof: Other wooden furniture: Other ..." The 2014 column one, general rate of duty is free.

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

EFFECT ON OTHER RULINGS:

NY N218739, dated June 20, 2012, NY N117616, dated August 23, 2010, NY N087304, dated December 21, 2009, NY N084602, dated December 8, 2009, and NY N063740, dated June 12, 2009 are hereby revoked.

Sincerely,

IEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



REVOCATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF WOODEN DESKS AND BOOKCASES

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

ACTION: Notice of revocation of two ruling letters and revocation of treatment relating to the tariff classification of wooden writing desks and bookcases.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking two ruling letters relating to the tariff classification of wooden writing desks and wooden bookcases under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 48, No. 17, on April 30, 2014. 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 6, 2014.

FOR FURTHER INFORMATION CONTACT: Beth Jenior, Tariff Classification and Marking Branch: (202) 325–0347.

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)), a notice was published in the *Customs Bulletin*, Volume 48, No. 17, on April 30, 2014, proposing to revoke New York

Ruling Letter (NY) N121616, dated September 16, 2010, and NY N236395, dated December 21, 2012, in which CBP determined that the subject wooden desks and wooden bookcases were classified in subheading 9403.50.90, HTSUS, which provides for, in pertinent part: “Other furniture ...: Wooden furniture of a kind used in the bedroom: Other: Other ...” No comments were received in response to this notice.

As stated in the proposed notice, this action will cover any rulings on the subject 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 rulings identified above. 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 comment period.

Similarly, pursuant to section 625 (c)(2), Tariff Act of 1930, as amended (19 U.S.C. §1625 (c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during 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 this final decision.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N121616 and NY N236395, in order to reflect the proper classification of the wooden desks and wooden bookcases under subheading 9403.60.80, HTSUS, which provides, in pertinent part, for “Other furniture ...: Other wooden furniture: Other ...,” according to the analysis contained in HQ H132495, set forth as an attachment to this document.

In accordance with 19 U.S.C. §1625(c)(1), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: July 11, 2014

IEVA K. O’ROURKE
For

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H132495

July 11, 2014

CLA-2 OT:RR:CTF:TCM H132495 EGJ

CATEGORY: Classification

TARIFF NO.: 9403.60.80

DARLENE DiBERNARDO
SENIOR TRADE ADVISOR
DERINGER LOGISTICS CONSULTING GROUP
173 WEST SERVICE ROAD
CHAMPLAIN, NY 12919

RE: Revocation of NY N121616 and NY N236395; Classification of Wooden Desks and Wooden Bookcases

DEAR Ms. DiBERNARDO:

In a letter to U.S. Customs and Border Protection (CBP) dated August 11, 2010, you requested a ruling on behalf of Vermont Precision Woodworks (Vermont). Specifically, you requested a tariff classification ruling under the Harmonized Tariff Schedule of the United States (HTSUS) for three articles of wooden furniture. Those three articles of furniture are: the Shaker Cottage Writing Desk, the Shaker Cottage Short Bookcase and the Shaker Cottage Tall Bookcase.

In New York Ruling Letter (NY) N121616, dated September 16, 2010, CBP classified all the furniture under subheading 9403.50, HTSUS, which provides for wooden furniture of a kind used in the bedroom. We have reviewed NY N121616 and find the ruling to be in error. For the reasons set forth below, we hereby revoke NY N121616 and one other ruling with substantially similar desk furniture: NY N236395, dated December 21, 2012.¹

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed revocation was published on April 30, 2014, in the *Customs Bulletin*, Volume 48, No. 17. CBP received no comments in response to this notice.

FACTS:

In NY N121616, CBP described the writing desk as a wooden desk with a single drawer. The writing desk measures 40 inches wide by 23 inches deep and 30 inches high. The ruling described the short bookcase as a wooden bookcase with two shelves. The short bookcase measures 36 inches wide by 14 inches deep by 30 inches high. Finally, the ruling described the tall bookcase as a wooden bookcase with four shelves. The tall bookcase measures 24 inches wide by 14 inches deep by 48 inches high. In the reconsid-

¹ NY N236395 describes the subject merchandise as follows: Item 1 is identified as the VIN P1-0109-12, Plantation Desk. The desk is manufactured in Indonesia. The desk is composed of wood, and measures 42-inches long by 20-inches wide by 30-inches high. This desk features a keyboard tray, one drawer and a cabinet for storage. Item 2 is identified as the VIN H111333C, Sawhorse Desk. The desk is manufactured in China. The desk is composed of wood, and measures 48-inches long by 24-inches wide by 30-inches high. This desk features two bottom shelves, which are located at opposite ends between the openings for the chair. Item 3 is identified as the VIN 177.18848, Secretary Desk. The desk is manufactured in China. The desk is composed of wood, and measures 42-inches long by 13-inches wide by 30-inches high. This desk features two top drawers and a cabinet for storage.

eration request, you submitted a catalog picture of the three articles of furniture arranged together. That picture is provided below:



The desk and bookcases are part of the Alaterre Collection distributed by Bolton Furniture. They are sold by retailers such as Kohls, Brookstone and Amazon. The desk is sold in the retailers' home furniture departments. The desk is described on the Kohls website, available at www.kohls.com, as follows:

Make over your home office with this writing desk by Alaterre. Its large desktop makes it the ideal place for studying or working. Plus, it has a simply chic style that will enhance your furniture collection.

- Flip-down drawer holds your keyboard.
- Sturdy wood construction ensures long-lasting use.

Similarly, the two bookcases are also sold in the home furniture departments of these retailers. The Brookstone website, available at www.brookstone.com, describes the tall bookcase as follows:

The Shaker Cottage Tall Bookcase Alaterre Collection is a stunning addition to any room in the home. The timeless design and superior craftsmanship ensure many years of style and storage.

Have you been searching for a bookcase that is perfect for the living room, the office, or even the bedroom? Take a look at the Shaker Cottage Tall Bookcase Alaterre Collection by Bolton. Great for books, knick knacks and more! Dynamic and durable, this bookcase is sure to please.

ISSUE:

1. Is the desk classified in subheading 9403.30, HTSUS, as wooden furniture of a kind used in offices, in subheading 9403.50, HTSUS, as wooden furniture of a kind used in the bedroom, or in subheading 9403.60, HTSUS, as other wooden furniture?
2. Are the bookcases classified in subheading 9403.30, HTSUS, as wooden furniture of a kind used in offices, in subheading 9403.50, HTSUS, as wooden furniture of a kind used in the bedroom, or in subheading 9403.60, HTSUS, as other wooden furniture?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRI's). 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. GRI 6 requires 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 the GRIs 1 through 5.

The HTSUS provisions at issue are as follows:

9403		Other furniture and parts thereof:
9403.30		Wooden furniture of a kind used in offices ...
*	*	*
9403.50		Wooden furniture of a kind used in the bedroom ...
*	*	*
9403.60		Other wooden furniture ...
*	*	*

Additional U.S. Rule of Interpretation 1(a), HTSUS, provides, in relevant part, that:

In the absence of special language or context which otherwise requires:
 ... a tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use.

* * *

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

EN 94.03 states, in pertinent part, that:

[T]his heading covers all seats (including those for vehicles, provided that they comply with the conditions prescribed in Note 2 to this Chapter), for example:

This heading covers furniture and parts thereof, **not covered** by the previous headings. It includes furniture for general use (e.g., cupboards, show-cases, tables, telephone stands, writing-desks, escritoirs, book-cases, and other shelved furniture (including single shelves presented with supports for fixing them to the wall), etc.), and also furniture for special uses.

The heading includes furniture for:

- (1) **Private dwellings, hotels, etc.**, such as: cabinets, linen chests, bread chests, log chests; chests of drawers, tallboys; pedestals, plant stands; dressing-tables; pedestal tables; wardrobes, linen presses; hall stands, umbrella stands; side-boards, dressers, cupboards; food-safes; bedside tables; beds (including wardrobe beds, camp-beds, folding beds, cots, etc.); needlework tables; stools and foot-stools (whether or not rocking) designed to rest the feet, fire screens; draught-screens; pedestal ashtrays; music cabinets, music stands or desks; play-pens; serving trolleys (whether or not fitted with a hot plate).
- (2) **Offices**, such as: clothes lockers, filing cabinets, filing trolleys, card index files, etc.
- (3) **Schools**, such as: school-desks, lecturers' desks, easels (for blackboards, etc.).
- (4) **Churches**, such as: altars, confessional boxes, pulpits, communion benches, lecterns, etc.
- (5) **Shops, stores, workshops, etc.**, such as: counters; dress racks; shelving units; compartment or drawer cupboards; cupboards for tools, etc.; special furniture (with cases or drawers) for printing-works.
- (6) **Laboratories or technical offices**, such as: microscope tables; laboratory benches (whether or not with glass cases, gas nozzles and tap fittings, etc.); fume-cupboards; unequipped drawing tables.

* * *

There is no dispute that the desk is classified under heading 9403, HTSUS, as furniture. According to GRI 6, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings. Under heading 9403, HTSUS, there are four separate subheadings for wooden furniture. Subheadings 9403.30, HTSUS, 9403.40, HTSUS, and 9403.50, HTSUS, each provide for wooden furniture of a kind used in offices, kitchens and bedrooms, respectively. Subheading 9403.60, HTSUS, is a residual provision for other wooden furniture. If the desk is not classifiable in subheadings 9403.30 through 9403.50, HTSUS, it will be classified in subheading 9403.60, HTSUS.

In *The Pomeroy Collection, Ltd. v. United States*, 559 F.Supp. 2d 1374, 1394 n. 23 (Ct. Int'l Trade 2008), the Court of International Trade (CIT) described different types of HTSUS provisions as follows:

A "use" provision is "a provision describing articles by the manner in which they are used as opposed to by name," while an *eo nomine* provision is one "in which an item is identified by name." *Len-Ron Mfg. Co. v. United States*, 334 F.3d 1304, 1308 (Fed. Cir. 2003). And there are two types of "use" provisions -- "actual use" and "principal (formerly known as "chief") use." An "actual use" provision is satisfied only if "such use is intended at the time of importation, the goods are so used and proof thereof is furnished within 3 years after the date the, goods are entered."

See Additional U.S. Rule of Interpretation (“ARI”) 1(b) (quoted in *Clarendon Mktg., Inc. v. United States*, 144 F.3d 1464, 1467 (Fed. Cir. 1998)). In contrast, a “principal use” provision functions essentially “as a controlling legal label, in the sense, that even if a particular import is proven to be actually used inconsistently with its principal use, the import is nevertheless classified according to its principal use.” *Clarendon Mktg.*, 144 F.3d at 1467.

In *Primal Lite, Inc. v. United States*, 22 C.I.T. 697, 700 (1998), the CIT described one method to identify principal use provisions as follows:

The use of the term “of a kind” is nothing more than a statement of the traditional standard for classifying importation[s] by their use, namely, that it need not necessarily be the actual use of the importation but is the use of the kind of merchandise to which the importation belongs.

Subheadings 9403.30, HTSUS, 9403.40, HTSUS, and 9403.50, HTSUS, each use the term “of a kind.” As such, these subheadings are principal use provisions. Under Additional U.S. Rule of Interpretation 1(a) (AUSR 1(a)), tariff classification under a principal use provision must be determined in accordance with the use in the United States of that class or kind to which the imported goods belong.

Thus, in order to be classified as wooden furniture of a kind used in offices, kitchens or bedrooms, the desk must belong to the same kind or class of goods as such furniture. In *United States v. Carborundum Co.*, 536 F.2d 373, 377 (CCPA 1976) (*Carborundum*), the U.S. Court of Customs and Patent Appeals stated that in order to determine whether an article is included in a particular class or kind of merchandise, the court must consider a variety of factors, including: (1) the general physical characteristics of the merchandise; (2) the channels, class or kind of trade in which the merchandise moves (where the merchandise is sold); (3) the expectation of the ultimate purchasers; (4) the environment of the sale (i.e., accompanying accessories and marketing); (5) usage, if any, in the same manner as merchandise which defines the class; (6) the economic practicality of so using the import; and (7) the recognition in the trade of this use. *Id.* While these factors were developed under the Tariff Schedule of the United States (predecessor to the HTSUS), the courts have also applied them under the HTSUS. See, e.g. *Aromont USA, Inc. v. United States*, 671 F.3d 1310 (Fed. Cir. 2012), *Essex Manufacturing, Inc. v. United States*, 30 C.I.T. 1 (2006).

In NY N121616, we determined that the wooden desk and bookcases were of the same class or kind of goods principally used as bedroom furniture. Applying the *Carborundum* factors, however, we note that the physical characteristics of the writing desk are: it is relatively small, its working surface measures 40 inches long by twenty-three inches wide, and it has only one small drawer across the top. With regard to the environment of the sale, we note that three different retailers sell the subject writing desk. An internet search reveals that other writing desks share the same physical characteristics as the instant merchandise.² Namely, other writing desks are also

² Pottery Barn (www.potterybarn.com), Target (www.target.com) and Raymour & Flanigan (www.raymourflanigan.com) all feature writing desks in their home furniture departments.

relatively small and consist of simple construction. Other retailers feature pictures of their writing desks in different home settings. Some are pictured next to bookshelves in the corner of a living area or a den. As such, the ultimate purchaser would expect to use the desk as a workstation in his/her home.

Finally, we note that EN 94.03 lists writing desks as an example of general use furniture, which comports with merchandise that defines the class of “other” wooden furniture. As the writing desks are small, they can easily fit into a space in any room of the home. Also, as to the channels of trade, they are not sold solely by office goods retailers; they are sold by department stores and general online retailers. These writing desks are distinguishable from desks for specific uses, such as desks sold as part of children’s bedroom suites. *See, e.g.* NY N080635, dated November 5, 2009, and NY N023523, dated February 28, 2008 (desks sold as parts of children’s bedroom suites were classified as bedroom furniture in subheading 9403.50, HTSUS). For all of these reasons, we do not find that the Shaker Cottage Writing Desk is of the same class or kind of goods as bedroom furniture or office furniture. Therefore, it is classified under subheading 9403.60, HTSUS, as other wooden furniture.

Like the wooden desk, we must apply the *Carborundum* factors to determine the principal use of the two bookcases. Looking at their physical characteristics, the two bookcases are shelving units. They are sold in both the home office and the general furniture sections of three different retailers. An ultimate purchaser would likely use the bookshelves to both store books and to display personal items. With regard to marketing, the catalog picture shows items such as baskets, framed photographs and coral displayed on the bookshelves. The Brookstone website states that the bookshelves are suitable for use in any room in the house. The bookshelves are likely used as general purpose shelving units in rooms such as the home office, the living room and the den.

For all of these reasons, the bookcases are not of the same class or kind of goods as bedroom furniture. Moreover, these bookcases are not principally used in offices or kitchens. Prior to NY N121616, CBP consistently classified bookcases as other wooden furniture under subheading 9403.60, HTSUS. *See* NY L81587, dated December 30, 2004, NY R02946, dated December 28, 2005 and NY N015359, dated August 16, 2007. As such, the bookcases are classifiable in residual subheading 9403.60, HTSUS, as “other” furniture.

The merchandise in question may be subject to antidumping duties or countervailing duties. *See* Notice of Final Determination of Sales at Less Than Fair Value in the Investigation of Wooden Bedroom Furniture from the People’s Republic of China, 69 Fed. Reg. 221, 67313 - 67320 (November 17, 2004). We note that the International Trade Administration is not necessarily bound by a country of origin or classification determination issued by CBP, with regard to the scope of antidumping orders or countervailing duties. Written decisions regarding the scope of AD/CVD orders are issued by the Import Administration in the Department of Commerce and are separate from tariff classification and origin rulings issued by Customs and Border Protection. You can contact them at <http://www.trade.gov/ia/> (click on “Con-

tact Us”). For your information, you can view a list of current AD/CVD cases at the United States International Trade Commission website at <http://www.usitc.gov> (click on “Antidumping and countervailing duty”), and you can search AD/CVD deposit and liquidation messages using ACE, the system of record for AD/CVD messages, or the AD/CVD Search tool available at <http://adcvd.cbp.dhs.gov/adcvdweb/>.

HOLDING:

By application of GRI 6 and AUSR 1(a), the Shaker Cottage Writing Desk, Shaker Cottage Short Bookcase and the Shaker Cottage Tall Bookcase are classifiable under subheading 9403.60.80, HTSUS, which provides, in pertinent part, for “Other furniture and parts thereof: Other wooden furniture: Other ...” The 2014 column one, general rate of duty is free.

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

EFFECT ON OTHER RULINGS:

NY N121616, dated September 16, 2010, and NY N236395, dated December 21, 2012 are hereby revoked.

Sincerely,

IEVA K. O’ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**REVOCATION OF A RULING LETTER AND REVOCATION
OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF CINNAMON SWEET ROLLS**

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

ACTION: Notice of revocation of a ruling letter and revocation of treatment relating to the tariff classification of cinnamon sweet rolls.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking a ruling letter relating to the tariff classification of cinnamon sweet rolls under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the

proposed action was published in the *Customs Bulletin*, Vol. 48, No. 17, April 30, 2014. One comment was received in support of the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 6, 2014.

FOR FURTHER INFORMATION CONTACT: Beth Jenior, Tariff Classification and Marking Branch, at (202) 325–0347.

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)), a notice was published in the *Customs Bulletin*, Volume 48, No. 17, on April 30, 2014, proposing to revoke New York Ruling Letter (NY) N150096, dated March 9, 2011, in which CBP determined that the subject cinnamon sweet rolls were classified in subheading 1901.90.90, HTSUS, which provides, in pertinent part, for: “[F]ood preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa ...not elsewhere specified or included: Other: Other: Other: Other: Other: Other...” One comment was received in support of this notice.

As stated in the proposed notice, this action will cover any rulings on the subject 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 ruling identified above. 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 comment period.

Similarly, pursuant to section 625 (c)(2), Tariff Act of 1930, as amended (19 U.S.C. §1625 (c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during 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 this final decision.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N150096, in order to reflect the proper classification of the cinnamon sweet rolls under subheading 1901.90.56, HTSUS, which provides, in pertinent part, for “[F]ood preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa ...not elsewhere specified or included: Other: Other: Other: Other: Articles containing over 10 percent by dry weight of sugar described in additional U.S. note 3 to chapter 17: Described in additional U.S. note 8 to chapter 17 and entered pursuant to its provisions,” according to the analysis set forth in HQ H158455, set forth as an attachment to this document. If the quantitative limits set forth in Additional U.S. Note 8 to Chapter 17 have already been met, it is CBP's position that the cinnamon sweet rolls are classified under subheading 1901.90.58, HTSUS, which provides, in pertinent part, for: “[F]ood preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa ...not elsewhere specified or included: Other: Other: Other: Other: Articles containing over 10 percent by dry weight of sugar described in additional U.S. note 3 to chapter 17: Other.” 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)(1), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: July 14, 2014

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

Attachment

HQ H158455

July 14, 2014

CLA-2 OT:RR:CTF:TCM H158455 EGJ

CATEGORY: Classification

TARIFF NO.: 1901.90.56; 1901.90.58

ADRIENNE CLIFT
READY BAKE FOODS
2095 MEADOWVALE BLVD.
MISSISSAUGA, ONTARIO L5N 5N1, CANADA

RE: Revocation of NY N150096: Classification of Cinnamon Sweet Rolls

DEAR MS. CLIFT:

In a letter dated February 24, 2011, you requested a ruling on the tariff classification of a frozen, unbaked cinnamon sweet roll under the Harmonized Tariff Schedule of the United States (HTSUS). In New York Ruling Letter (NY) N150096, dated March 9, 2011, U.S. Customs and Border Protection (CBP) responded to your request and classified the subject merchandise under subheading 1901.90.90, HTSUS, which provides for other food preparations of flour.

In a letter dated March 18, 2011, you provided additional information regarding the cinnamon roll and asked CBP to revoke NY N150096. We have reviewed NY N150096 and the additional information that you provided, and we have found the ruling to be in error. For the reasons set forth below, we hereby revoke NY N150096.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY N150096 was published on April 30, 2014, in Volume 48, Number 17, of the *Customs Bulletin*. One comment was received in support of the notice.

FACTS:

In NY N150096, CBP described the cinnamon roll (sku number 10240) as “an unbaked roll-shaped pastry with a cinnamon filling. The pastry is composed of flour, water, yeast, sugar, sweet dough concentrate, shortening, cinnamon filling, margarine, flavor and cinnamon, and weighs 2.5 oz. (71 g.), net weight. The total sugar content is less than 10 percent, by dry weight. The frozen products will be imported in a cardboard box holding 16.9 lbs., net weight, and sold to retail stores who need to proof and bake the products before selling to the public.”

In the original ruling request, you stated that the cinnamon roll contains less than ten percent of sugar by dry weight. In your request for reconsideration, you included the dry weight of ingredients in the cinnamon mix included in the roll. This information was not included in the original request. Based on the additional information, the dry weight of sugar in the cinnamon mix plus the dry weight of sugar in the roll is greater than ten percent of the total dry weight of the cinnamon roll.

ISSUE:

Is the cinnamon roll classified in subheading 1901.90.56, HTSUS, as a food preparation of flour containing over 10 percent by dry weight of sugar, or in subheading 1901.90.90, HTSUS, as other types of food preparations of flour?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRI's). 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. GRI 6 requires 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 the GRIs 1 through 5.

The HTSUS provisions at issue are as follows:

1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:
1901.90	Other:
	Other:
	Other:
	Articles containing over 10 percent by dry weight of sugar described in additional U.S. note 3 to chapter 17:
1901.90.56	Described in additional U.S. note 8 to chapter 17 and entered pursuant to its provisions ...
*	*
1901.90.58	Other ...
*	*
	Other:
1901.90.90	Other ...
*	*

Additional U.S. Note 3 to Chapter 17 provides, in pertinent part, as follows:

For the purposes of this schedule, the term “articles containing over 10 percent by dry weight of sugar described in additional U.S. note 3 to chapter 17” means articles containing over 10 percent by dry weight of sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients ...

Additional U.S. Note 8 to Chapter 17 provides as follows:

The aggregate quantity of articles containing over 10 percent by dry weight of sugars described in additional U.S. note 3 to chapter 17, entered under subheadings 1701.91.54, 1704.90.74, 1806.20.75, 1806.20.95, 1806.90.55, 1901.90.56, 2101.12.54, 2101.20.54, 2106.90.78 and 2106.90.95 during the 12-month period from October 1 in any year to the

following September 30, inclusive, shall not exceed 64,709 metric tons (articles the product of Mexico shall not be permitted or included under this quantitative limitation and no such articles shall be classifiable therein).

* * *

Applying GRI 1, it is undisputed that frozen, unbaked pastries are classified in heading 1901, HTSUS, as food preparations of flour. Indeed, in *Schulstad USA, Inc. v. United States*, 26 C.I.T. 1347, 1355 (2002), the Court of International Trade found that frozen, unbaked Danish pastries “cannot be classified with baked articles if not in fact baked before freezing ... this means that plaintiff’s entered frozen mass of fully prepared pastry ingredients does land in the food ‘basket’ provision of HTSUS heading 1901.” As such, the frozen, unbaked cinnamon roll is classified in heading 1901, HTSUS.

In NY N150096, CBP classified the cinnamon roll in subheading 1901.90.90, HTSUS, because CBP calculated that the sugar content was less than ten percent of the cinnamon roll’s dry weight. However, based upon additional information in the reconsideration request, CBP calculates that the sugar constitutes more than ten percent of the cinnamon roll’s dry weight. As such, the cinnamon rolls are classified in subheading 1901.90.56, HTSUS, which provides for food preparations of flour containing over ten percent by dry weight of sugar when the sugar is derived from sugar cane or sugar beets.

Additional U.S. Note 8 to Chapter 17 sets forth a quota which limits importations of goods classified under subheading 1901.90.56, HTSUS. If the cinnamon rolls are imported in quantities that fall under the limit set forth in additional U.S. Note 8 to Chapter 17, they shall remain classified in subheading 1901.90.56, HTSUS. However, if the quantitative limits of additional U.S. Note 8 to Chapter 17, HTSUS, have been reached, the subject cinnamon rolls will be classified in subheading 1901.90.58, HTSUS. We note that merchandise that is a product of Mexico is not subject to this quota; thus, if it were determined that the subject cinnamon rolls were products of Mexico, they would not be subject to this quota.

HOLDING:

If imported in quantities that fall within the limits described in additional U.S. Note 8 to Chapter 17, the cinnamon rolls will be classified in subheading 1901.90.56, HTSUS, which provides, in pertinent part, for “[F]ood preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa ...not elsewhere specified or included: Other: Other: Other: Other: Articles containing over 10 percent by dry weight of sugar described in additional U.S. note 3 to chapter 17: Described in additional U.S. note 8 to chapter 17 and entered pursuant to its provisions.” The 2014 column one, general rate of duty is 10% *ad valorem*.

If the quantitative limits of Additional U.S. Note 8 to Chapter 17, HTSUS, have been reached, the cinnamon rolls will be classified in subheading 1901.90.58, HTSUS, which provides, in pertinent part, for: “[F]ood preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa ...not elsewhere specified or included: Other: Other: Other: Other: Articles containing over 10 percent

by dry weight of sugar described in additional U.S. note 3 to chapter 17: Other.” The 2014 column one, general rate of duty is 23.7 cents per kilogram plus 8.5% *ad valorem*. Furthermore, if classified in subheading 1901.90.58, HTSUS, the cinnamon rolls will also be subject to the additional duty rates specified in subheadings 9904.17.49 - 9904.17.65, HTSUS, as applicable.

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

EFFECT ON OTHER RULINGS:

NY N150096, dated March 9, 2011, is hereby revoked.

Sincerely,

IEVA K. O’ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



General Notice

**DATES AND DRAFT AGENDA OF THE FIFTY-FOURTH
SESSION OF THE HARMONIZED SYSTEM COMMITTEE OF
THE WORLD CUSTOMS ORGANIZATION**

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

ACTION: Publication of the dates and draft agenda for the fifty-fourth session of the Harmonized System Committee of the World Customs Organization.

SUMMARY: This notice sets forth the dates and draft agenda for the next session of the Harmonized System Committee of the World Customs Organization.

DATES: July 15, 2014

FOR FURTHER INFORMATION CONTACT: Joan A. Jackson, Staff Assistant, Tariff Classification and Marking Branch, U.S. Customs and Border Protection (202–325–0010), or Dan Shepherdson, Attorney Advisor, Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission (202–205–2598).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The United States is a contracting party to the International Convention on the Harmonized Commodity Description and Coding Sys-

tem (“Harmonized System Convention”). The Harmonized Commodity Description and Coding System (“Harmonized System”), an international nomenclature system, forms the core of the U.S. tariff, the Harmonized Tariff Schedule of the United States. The Harmonized System Convention is under the jurisdiction of the World Customs Organization (established as the Customs Cooperation Council).

Article 6 of the Harmonized System Convention establishes a Harmonized System Committee (“HSC”). The HSC is composed of representatives from each of the contracting parties to the Harmonized System Convention. The HSC’s responsibilities include issuing classification decisions on the interpretation of the Harmonized System. Those decisions may take the form of published tariff classification opinions concerning the classification of an article under the Harmonized System or amendments to the Explanatory Notes to the Harmonized System. The HSC also considers amendments to the legal text of the Harmonized System. The HSC meets twice a year in Brussels, Belgium. The next session of the HSC will be the fifty-fourth and it will be held from September 18, 2014 to September 26, 2014.

In accordance with section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), the Department of Homeland Security, represented by U.S. Customs and Border Protection, the Department of Commerce, represented by the Census Bureau, and the U.S. International Trade Commission (“ITC”), jointly represent the U.S. government at the sessions of the HSC. The Customs and Border Protection representative serves as the head of the delegation at the sessions of the HSC.

Set forth below is the draft agenda for the next session of the HSC. Copies of available agenda-item documents may be obtained from either Customs and Border Protection or the ITC. Comments on agenda items may be directed to the above-listed individuals.

IEVA K. O’ROURKE,
*Chief Tariff Classification and
Marking Branch*

Attachment



WORLD CUSTOMS ORGANIZATION
 ORGANISATION MONDIALE DES DOUANES
 Established in 1952 as the Customs Co-operation Council
 créée en 1952 sous le nom de Conseil de coopération douanière

HARMONIZED SYSTEM
 COMMITTEE

NC2006E1a

-
 54th Session

O. Fr.

Brussels, 9 July 2014.

DRAFT AGENDA FOR THE 54TH SESSION OF THE HARMONIZED SYSTEM COMMITTEE

From : Thursday 18 September 2014 (10 a.m.)

To : Friday 26 September 2014

N.B. : Monday 15 September 2014 (9.30 a.m.) to Wednesday 17 September 2014: Pre-session Working Party (to examine the questions under **Agenda Item IV**)

I. ADOPTION OF THE AGENDA

- | | | |
|----|-----------------|-----------|
| 1. | Draft Agenda | NC2006E1a |
| 2. | Draft Timetable | NC2007B1a |

II. REPORT BY THE SECRETARIAT

- | | | |
|----|---|---|
| 1. | Position regarding Contracting Parties to the HS Convention and related matters and progress report on the implementation of HS 2012 | NC2008E1a |
| 2. | Report on the last meetings of the Policy Commission (71 st Session) and the Council (123 rd /124 th Sessions) | NC2009E1a |
| 3. | Approval of decisions taken by the Harmonized System Committee at its 53 rd Session | NG0202E1
NC2005E1_
Approval_of
decisions_HS
C53 |
| 4. | Capacity building activities of the Nomenclature and Classification Sub-Directorate | NC2010E1a |
| 5. | Co-operation with other international organizations | NC2011E1a |
| 6. | New information provided on the WCO Web site | NC2012E1a |
| 7. | Draft amendments to be made to the Harmonized System by corrigendum | NC2013E1a |

8. Development of correlation tables between the 2012 and 2017 versions of the Harmonized System NC2014E1a
9. Other:
 • Use of the WCO Web site in relation to the HS

GENERAL QUESTIONS

1. WTO Agreement on Trade Facilitation NC2015E1a
2. Possible amendment of the Recommendation of the Customs Co-operation Council on the Introduction of Programmes for Binding Pre-entry Classification Information in accordance with the WTO Trade Facilitation Agreement (TFA) NC2016E1a
3. Examination of the voting procedure for HS amendments in the event of two or more alternative texts NC2017E1a
4. Simplification of the procedure for adoption of the Reports of the Review Sub-Committee and the HS Working Party NC2018E1a
5. Layout of working documents for the HS Committee NC2019E1a

IV REPORT OF THE PRESESSIONAL WORKING PARTY

1. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify roe of capelin in heading 03.03 (subheading 0303.90) NC2020E1a, Annex A
2. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify roe of lumpfish in heading 03.05 (subheading 0305.20) NC2020E1a, Annex B
3. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a mixture of unfermented fruit juices containing spices (Product 2) in heading 20.09 (subheading 2009.90) NC2020E1a, Annex C
5. Possible amendment to the Explanatory Note to heading 29.37 to clarify the classification of a product called “sepranolone (INN)” (INN List 107) NC2020E1a, Annex D
6. Possible amendment to the Explanatory Note to subheading 2941.30 to clarify the classification of a product called “eravacycline (INN)” (INN List 108) NC2020E1a, Annex E
7. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify certain articles of plastics (Type 1, Appendix I, numbers 1, 3, 5, 7 and 9, Type 2, Appendix I, numbers 2, 4, 6 and 8 and Type 3, Appendix I, number 10) in heading 39.23 (subheading 3923.10) NC2020E1a, Annex F
8. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify certain articles of plastics (Type 4, Appendix II and Type 5, Appendix III) in heading 39.23 (subheading 3923.90) NC2020E1a, Annex G

9. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a women's garment (Category II) in heading 61.06 (subheading 6106.20) NC2020E1a, Annex H
10. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a women's garment (Category III) in heading 61.09 (subheading 6109.90) NC2020E1a, Annex IJ
11. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a women's garment (Category IV, Case No. 2) in heading 61.10 (subheading 6110.20) NC2020E1a, Annex K
12. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify certain women's garments (Category IV, Case No. 1 and Category IV, Case No. 3) in heading 61.10 (subheading 6110.30) NC2020E1a, Annex L
13. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a women's garment (Category V) in heading 61.14 (subheading 6114.30) NC2020E1a, Annex M
14. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a women's garment (Category I, Case No.1, Photograph 1) in heading 62.02 (subheading 6202.13) NC2020E1a, Annex N
15. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a women's garment (Category I, Case No. 1, Photograph 2) in heading 62.02 (subheading 6202.93) NC2020E1a, Annex O
16. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify silvered hollow glass microspheres in heading 71.15 (subheading 7115.90) NC2020E1a, Annex P
17. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a radiator to be used in an excavator (Product 2) in heading 84.31 (subheading 8431.49) and a radiator for a motorcycle (Product 1) in heading 87.14 (subheading 8714.10) NC2020E1a, Annex Q
18. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a drum housing for a combine harvester-thresher in heading 84.33 (subheading 8433.90) NC2020E1a, Annex R
19. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify pneumatic secateurs (Product 1) in heading 84.67 (subheading 8467.19) NC2020E1a, Annex S
20. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify tempered cover glass used in the manufacture of cellular phones in heading 85.17 (subheading 8517.70) NC2020E1a, Annex T

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|---|---|------------------------------------|
| 21. | Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify patch panels in heading 85.36 (subheading 8536.90) | NC2020E1a,
Annex U |
| 22. | Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify certain cabinets (Cases 1 and 3) in heading 94.03 (subheading 9403.20) | NC2020E1a,
Annex V |
| V. <u>REQUESTS FOR RE-EXAMINATION (RESERVATIONS)</u> | | |
| 1. | Re-examination of the classification of “HP w2338h Monitor” fitted with VGA and HDMI connectors (Request by Peru and Thailand) | NC2021E1a |
| 2. | Re-examination of the classification of a product containing more than 98,5 % of sodium sulphate and the classification of a product containing more than 99,2 % of sodium sulphate (Request by the Russian Federation) | NC2022E1a |
| 3. | Re-examination of the classification of products called “Green Apple Powder” and “Spinach Juice Powder” (Request by Switzerland) | NC2023E1a |
| 4. | Re-examination of the classification of certain light-emitting diode (LED) assemblies (Request by the US) | NC2024E1a |
| VI. <u>FURTHER STUDIES</u> | | |
| 1. | Possible amendment of the Explanatory Note to heading 30.02 to clarify the classification of a product called “topsalysin (INN)” (INN List 109) | NC2025E1a |
| 2. | Classification of peach pulp concentrate (Request by South Africa)* | NC2026E1a
NC1969E1a
(HSC/53) |
| 3. | Classification of a cheese substitute (Request by Argentina) | NC2027E1a
NC1972E1a
(HSC/53) |
| 4. | Classification of equipment for harvesting olives, almonds and pistachios and for pruning fruit and nut trees (Products 2, 3 and 4) (Request by Tunisia)* | NC2028E1a |
| 5. | Classification of certain textile articles (Category I, Case No. 2) (Request by Colombia) | NC2029E1a |
| 6. | Classification of certain reflective insulations (Request by Japan) | NC2030E1a
NC1983E1a
(HSC/53) |
| 7. | Classification of a “SHARP Thin-film Solar Module, Model NA-F GK” (Request by Thailand) | NC2031E1a |
| 8. | Classification of an “Air Handling Unit ZHK 2000S” (Request by Tunisia)* | NC2032E1a
NC1987E1a
(HSC/53) |

* The examination of this question is dependent on the information provided by administrations.

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|---|--|---|
| 9. | Classification of a preparation for use in animal feeding called “ <u>BEWI-Spray-99-L</u> ” (Request by the EU) | NC2033E1a
NC1989E1a (HSC/53)
NC1994E1a (HSC/53) |
| 10. | Scope of the expression “original character” of juices in the Explanatory Note to heading 20.09 (Request by the Russian Federation) | NC2034E1a
NC2001E1a (HSC/53) |
| 11. | Possible amendment of the Explanatory Notes to clarify the classification of glues and adhesives (Request by the Russian Federation) | NC2035E1a
NC2002E1a (HSC/53) |
| VII. <u>NEW QUESTIONS</u> | | |
| 1. | Possible amendment of Chapter 27 in respect of “crude oils”, “crude petroleum oils” and “topped crudes” (Proposal by the Russian Federation) | NC2036E1a
NC1952E1a (HSC/53) |
| 2. | Classification of certain “Inflatable balls” (Proposal by the Secretariat) | NC2037E1a |
| 3. | Classification of liquid maltitol (Request by the Russian Federation) | NC2038E1a |
| 4. | Classification of a cheese-flavoured crispy snack product called “ <u>OSTEPOP</u> ” (Request by Norway) | NC2039E1a |
| 5. | Classification of certain presensitised offset printing plates (Request by South Africa) | NC2040E1a |
| 6. | Classification of a dairy product called “ <u>Danone Vitalinea PRO jordgubb</u> ” (Request by Norway) | NC2041E1a |
| 7. | Possible amendment of the Explanatory Notes to heading 15.09 and heading 15.10 (Proposal by the IOC) | NC2042E1a |
| 8. | Classification of the “Opel Astravan” motor vehicle (Request by Tunisia) | NC2043E1a |
| 9. | Classification of the “Aront RT 8600” massage chair (Request by Tunisia) | NC2044E1a |
| VIII. <u>ADDITIONAL LIST</u> | | |
| 1. | | |
| 2. | | |
| IX. <u>OTHER BUSINESS</u> | | |
| 1. | List of questions which might be examined at a future session | NC2045E1a |
| X. <u>DATES OF NEXT SESSIONS</u> | | |

**REVOCAION OF TWO RULING LETTERS AND
MODIFICATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF SCREWDRIVERS WITH
INTERCHANGEABLE BITS**

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

ACTION: Notice of revocation of two ruling letters and modification of treatment relating to the tariff classification of screwdrivers with interchangeable bits.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (“CBP”) is revoking two rulings concerning the tariff classification of screwdrivers with interchangeable bits under the Harmonized Tariff Schedule of the United States (“HTSUS”). CBP is also revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed modification and revocation was published on November 7, 2012, in the *Customs Bulletin*, Volume 46, Number 46. 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 6, 2014.

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 commu-

nity'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, a notice was published on November 7, 2012, in the *Customs Bulletin*, Volume 46, No. 46, proposing to revoke two ruling letters pertaining to the tariff classification of screwdrivers with interchangeable bits. Although in the proposed notice, CBP is specifically referring to the revocation of New York Ruling Letter ("NY") D87806, dated February 11, 1999, and NY D88860, dated March 10, 1999, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., 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. No comments were received in response to this notice.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. § 1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the 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 D87806 and NY D88860, CBP classified screwdrivers with interchangeable bits under subheading 8207.90.6000, HTSUSA, which provides for: "[i]nterchangeable tools for handtools . . . : [o]ther interchangeable tools, and parts thereof: [o]ther: [n]ot suitable for cutting metal, and parts thereof: [f]or handtools, and parts thereof." Upon our review of these two rulings, we have determined that the merchandise described in the rulings is properly classified under subheading 8205.40.0000, HTSUSA, which provides for: "[h]andtools (including glass cutters) not elsewhere specified or included; blow

torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof: [s]crewdrivers, and parts thereof.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY D87806 and NY D88860 and revoking or modifying any other ruling not specifically identified to reflect the proper classification of the subject merchandise according to the analysis contained in Headquarters Ruling Letter (“HQ”) H070915, set forth as “Attachment A,” and HQ H070916, set forth as “Attachment B” 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.

Dated: July 17, 2014

IEVA K. O’ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

HQ H070915

July 17, 2014

**CLA-2 OT:RR:CTF:TCM H070915 RES
CATEGORY : Classification
TARIFF NO.: 8205.40.0000**

Ms. LISA PETERMAN
AW FENTON COMPANY
1157 RARIG AVENUE
COLUMBUS, OHIO 43236-0614

RE : Revocation of New York Ruling Letter D87806, dated February 11, 1999; classification of an 8” 6-in-1 Supergrip Screwdriver with six bits from China.

DEAR Ms. PETERMAN:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York (“NY”) Ruling letter D87806, dated February 11, 1999, regarding the classification of an 8” 6-in-1 Supergrip Screwdriver with six bits, under the Harmonized Tariff Schedule of the United States (“HTSUS”). The merchandise in NY D87806 was classified as interchangeable tools, under heading 8207, HTSUS. We have determined that NY D87806 was in error. Accordingly, we are revoking NY D87806, to reflect the proper classification of the 8” 6-in-1 Supergrip Screwdriver with six bits.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed action was published on November 7, 2012, in Volume 46, Number 46, of the *Customs Bulletin*. No comments were received in response to this notice.

FACTS:

The following facts were set forth in NY D87806:

The sample submitted (item SD65PND) is an 8” 6 in-one Supergrip Screwdriver with six attached bits. The screwdriver has a plastic handle with a 2.5” black grip. The shank is made of carbon steel. There are six bits made of chrome vanadium steel that measure 1” in length and are housed on the screwdriver. The screwdriver and bits are sold as a single unit. The bits include sizes 1 slotted 3/36”, 1 slotted ¼”, 1 Phillips 1”, 1 Phillips 2”, 1 star 15 and 1 star 20.

ISSUE:

Whether the subject merchandise is classified under heading 8205, HTSUS as a single tool or under 8207 as an interchangeable tool for handtools?

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 GRI 2 through 6 may be applied in order.

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

- 8205 Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof:
- 8207 Interchangeable tools for handtools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screwdriving), including dies for drawing or extruding metal, and rock drilling or earth boring tools; base metal parts thereof:

The Legal Notes to Chapter 82, HTSUS, provide in pertinent part:

1. Apart from blow torches and similar self-contained torches, portable forges, grinding wheels with frameworks, manicure or pedicure sets, and goods of heading 8209, this chapter covers only articles with a blade, working edge, working surface or other working part of:

(a) Base metal;

* * *

2. Parts of base metal of the articles of this chapter are to be classified with the articles of which they are parts, except parts separately specified as such and toolholders (heading 8466). However, parts of general use as defined in note 2 to section XV are in all cases excluded from this chapter.

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).

EN 82.05 provides in pertinent part:

This heading covers all hand tools not included in other headings of this Chapter or elsewhere in the Nomenclature (see the General Explanatory Notes to this Chapter), together with certain other tools or appliances specifically mentioned in the title.

It includes a large number of hand tools (including some with simple hand-operated mechanisms such as cranks, ratchets or gearing). This group of tools includes:

* * *

(D) Screwdrivers (including ratchet types).

* * * * *

EN 82.07 provides in pertinent part:

Whereas (apart from a few exceptions such as machine saw blades) the preceding headings of this Chapter apply in the main to hand tools ready for use as they stand or after affixing handles, this heading covers an important group of tools which are unsuitable for use independently, but are design to be fitted, as the case may be, into:

(A) hand tools, whether or not power-operated (e.g., breast drills, braces and die-stocks),

* * * * *

The tools classified in this heading include:

* * *

(9) Other interchangeable tools, such as:

* * *

(c) Screwdriver bits.

* * * * *

This article was originally classified under heading 8207, HTSUS. However, upon further review, because the screwdriver bits are imported with the screwdriver shaft and screwdriver handle, are stored within the actual screwdriver handle itself, and the screwdriver bits, shaft, and handle are all sold together in retail, CBP has now determined that the article is classified as a complete article pursuant to GRI 1.

Screwdriver bits, imported by themselves, would be classifiable under heading 8207, HTSUS. However, as EN 82.07 explains, hand tools that are ready for use, such as the article at issue here, are not classifiable under heading 8207, HTSUS. Instead, articles classifiable under heading 8207, HTSUS, such as the screwdriver bits when imported and sold as separate articles, are unsuitable for use independently and must be fitted into a screwdriver shaft in order to perform the screwing function.

The tariff term “screwdriver” is not defined in the HTSUS. “When a tariff term is not defined in either the HTSUS or its legislative history, the term’s correct meaning is presumed to be its common meaning in the absence of evidence to the contrary.” *Timber Prods. Co. v. United States*, 515 F.3d 1213, 1219 (Fed. Cir. 2008). In discerning this common meaning, federal courts utilize dictionary definitions of the statute’s words. See *Archer Daniels v. United States*, 561 F.3d 1308, 1312 (Fed. Cir. 2009). Various lexicographic resources define screwdriver as a tool for turning screws.¹ A screwdriver consists of a handle made of various materials (e.g. plastic and rubber) attached to a narrow shank usually made of a base metal and has a tip on the end of the shank that fits into the slot of a screw.²

There is nothing in the HTSUS or the ENs limiting a screwdriver to having only a fixed bit head, possessing only one type of bit, being able to function with one type of screw (e.g. Phillips, flathead, Robertson, hex, star), having a fixed handle, or a ratchet type handle. Rather, the only requirement for a tool to be classified as a screwdriver is that it is a hand tool for turning screws (the terms of heading 8205 limit this heading to the type of tools where a person uses his/her hands to utilize the tool to perform the work). Reading heading 8205.40.00, HTSUS, and EN 82.05 broadly, it encompasses screwdrivers that not only have a fixed head, but screwdrivers that could have interchangeable heads, including screwdrivers that come with multiple bits stored within the

¹ See <http://www.merriam-webster.com/dictionary/screwdriver?show=0&t=1335991059> (last visited May 2, 2012); <http://en.wikipedia.org/wiki/Screwdriver> (last visited on May 2, 2012);

² See <http://dictionary.reference.com/browse/screwdriver> (last visited May 2, 2012).

handle. The screwdriver bits, shaft, and handle, when imported and sold together form a complete self-contained screwdriver.

Thus, a screwdriver with multiple bits stored in the handle or on the tool itself can be regarded as a single tool for classification purposes and, hence, *eo nomine* classifiable as a screwdriver under heading 8205, HTSUS. See NY F80628, dated December 13, 1999; NY J82517, dated April 17, 2003; NY N034060, dated August 4, 2008. Because we have determined that the article at issue here is a complete article properly classifiable under GRI 1, resort to an analysis under GRI 3(b) is unnecessary.

Therefore, upon reconsideration CBP has determined that the classification in NY D87806 of the 8" 6-in-1 Supergrip Screwdriver with six bits in heading 8207, HTSUS, is incorrect. The 8" 6-in-1 Supergrip Screwdriver with six bits is properly classified in heading 8205, HTSUS, as "[h]andtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof:"

HOLDING:

Pursuant to GRI 1, the 8" 6-in-1 Supergrip Screwdriver with six bits is classified under subheading 8205.40.0000, HTSUSA, as "[h]andtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof: [s]crewdrivers, and parts thereof." The general, column one, rate of duty is 6.2% *ad valorem*.

EFFECTS ON OTHER RULINGS:

NY D87806, dated February 11, 1999, 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,

IEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

[ATTACHMENT B]

HQ H070916

July 17, 2014

CLA-2 OT:RR:CTF:TCM H070916 RES

CATEGORY: Classification

TARIFF NO.: 8205.40.0000

MR. ARLEN T. EPSTEIN
TOMPKINS & DAVIDSON
1515 BROADWAY
NEW YORK, NY 10036-8901

RE : Revocation of New York Ruling Letter D88860, dated March 10, 1999; classification of Light-up Magnetic Screwdriver.

DEAR MR. EPSTEIN:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York (“NY”) Ruling letter D88860, dated March 10, 1999, regarding the classification of a light-up magnetic screwdriver with six bits, under the Harmonized Tariff Schedule of the United States (“HTSUS”). The merchandise in NY D88860 was classified as interchangeable tools, under heading 8207, HTSUS. We have determined that NY D88860 was in error. Accordingly, we are revoking NY D88860, to reflect the proper classification of the light-up magnetic screwdriver with six bits.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed action was published on November 7, 2012, in Volume 46, Number 46, of the *Customs Bulletin*. No comments were received in response to this notice.

FACTS:

The following facts were set forth in NY D88860:

The sample submitted (PP189453) is an interchangeable tool consisting of six bits (two flat head screwdriver bits, two Phillips head screwdriver bits and two star shaped bits) with a lighted “driver” handle. The handle incorporates a magnetized, telescoping shaft and a small battery power light to illuminate the tool. Each bit, measuring approximately one inch, is stored in a molded plastic housing located in the handle.

ISSUE:

Whether the subject merchandise is classified under heading 8205, HTSUS as a single tool or under 8207 as an interchangeable tool for handtools?

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 GRI 2 through 6 may be applied in order.

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

- 8205 Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof:
- 8207 Interchangeable tools for handtools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screwdriving), including dies for drawing or extruding metal, and rock drilling or earth boring tools; base metal parts thereof:

The Legal Notes to Chapter 82, HTSUS, provide in pertinent part:

1. Apart from blow torches and similar self-contained torches, portable forges, grinding wheels with frameworks, manicure or pedicure sets, and goods of heading 8209, this chapter covers only articles with a blade, working edge, working surface or other working part of:

(a) Base metal;

* * *

2. Parts of base metal of the articles of this chapter are to be classified with the articles of which they are parts, except parts separately specified as such and toolholders (heading 8466). However, parts of general use as defined in note 2 to section XV are in all cases excluded from this chapter.

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).

EN 82.05 provides in pertinent part:

This heading covers all hand tools not included in other headings of this Chapter or elsewhere in the Nomenclature (see the General Explanatory Notes to this Chapter), together with certain other tools or appliances specifically mentioned in the title.

It includes a large number of hand tools (including some with simple hand-operated mechanisms such as cranks, ratchets or gearing). This group of tools includes:

* * *

(D) Screwdrivers (including ratchet types).

* * * * *

EN 82.07 provides in pertinent part:

Whereas (apart from a few exceptions such as machine saw blades) the preceding headings of this Chapter apply in the main to hand tools ready for use as they stand or after affixing handles, this heading covers an important group of tools which are unsuitable for use independently, but are design to be fitted, as the case may be, into:

(A) hand tools, whether or not power-operated (e.g., breast drills, braces and die-stocks),

* * * * *

The tools classified in this heading include:

* * *

(9) Other interchangeable tools, such as:

* * *

(c) Screwdriver bits.

* * * * *

The light-up magnetic screwdriver with six bits article was originally classified under heading 8207, HTSUS. However, upon further review, because the screwdriver bits are imported with the screwdriver shaft and screwdriver handle, are stored within the actual screwdriver handle itself, and the screwdriver bits, shaft, and handle are all sold together in retail, CBP has now determined that the article is classified as a complete article pursuant to GRI 1.

Screwdriver bits, imported by themselves, would be classifiable under heading 8207, HTSUS. However, as EN 82.07 explains, hand tools that are ready for use, such as the article at issue here, are not classifiable under heading 8207, HTSUS. Instead, articles classifiable under heading 8207, HTSUS, such as the screwdriver bits when imported and sold as separate articles, are unsuitable for use independently and must be fitted into a screwdriver shaft in order to perform the screwing function.

The tariff term “screwdriver” is not defined in the HTSUS. “When a tariff term is not defined in either the HTSUS or its legislative history, the term’s correct meaning is presumed to be its common meaning in the absence of evidence to the contrary.” *Timber Prods. Co. v. United States*, 515 F.3d 1213, 1219 (Fed. Cir. 2008). In discerning this common meaning, federal courts utilize dictionary definitions of the statute’s words. See *Archer Daniels v. United States*, 561 F.3d 1308, 1312 (Fed. Cir. 2009). Various lexicographic resources define screwdriver as a tool for turning screws.¹ A screwdriver consists of a handle made of various materials (e.g. plastic and rubber) attached to a narrow shank usually made of a base metal and has a tip on the end of the shank that fits into the slot of a screw.²

There is nothing in the HTSUS or the ENs limiting a screwdriver to having only a fixed bit head, possessing only one type of bit, being able to function with one type of screw (e.g. Phillips, flathead, Robertson, hex, star), having a fixed handle or a ratchet type handle, having a fixed shaft or telescopic shaft, or incorporating a small battery powered light. Rather, the only requirement for a tool to be classified as a screwdriver is that it is a hand tool for turning screws (the terms of heading 8205 limit this heading to the type of tools where a person uses his/her hands to utilize the tool to perform the work). Reading heading 8205.40.00, HTSUS, and EN 82.05 broadly, it encompasses

¹ See <http://www.merriam-webster.com/dictionary/screwdriver?show=0&t=1335991059> (last visited May 2, 2012); <http://en.wikipedia.org/wiki/Screwdriver> (last visited on May 2, 2012);

² See <http://dictionary.reference.com/browse/screwdriver> (last visited May 2, 2012).

screwdrivers that not only have a fixed head, but screwdrivers that could have interchangeable heads, including screwdrivers that come with multiple bits stored within the handle. The screwdriver bits, shaft, handle, and other subsidiary features (i.e. light), when imported and sold together form a complete self-contained screwdriver.

Thus, a screwdriver with multiple bits stored in the handle or on the tool itself can be regarded as a single tool for classification purposes and, hence, *eo nomine* classifiable as a screwdriver under heading 8205, HTSUS. See NY F80628, dated December 13, 1999; NY J82517, dated April 17, 2003; NY N034060, dated August 4, 2008. Because we have determined that the article at issue here is a complete article properly classifiable under GRI 1, resort to an analysis under GRI 3(b) is unnecessary.

Therefore, upon reconsideration CBP has determined that the classification in NY D88860 of the light-up magnetic screwdriver with six bits under heading 8207, HTSUS, is incorrect. The light-up magnetic screwdriver with six bits is properly classified under heading 8205, HTSUS, as “[h]andtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof.”

HOLDING:

Pursuant to GRI 1, the light-up magnetic screwdriver with six bits that are stored in its handle is classified under subheading 8205.40.0000, HTSUSA, as “[h]andtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof: [s]crewdrivers, and parts thereof.” The general, column one, rate of duty is 6.2% *ad valorem*.

EFFECTS ON OTHER RULINGS:

NY D88860, dated March 10, 1999, 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,

IEVA K. O’ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

APPROVAL OF SGS NORTH AMERICA, INC., AS A COMMERCIAL GAUGER

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

ACTION: Notice of approval of SGS North America, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc., has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of April 14, 2014.

DATES: *Effective Dates:* The approval of SGS North America, Inc., as commercial gauger became effective on April 14, 2014. The next triennial inspection date will be scheduled for April 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that SGS North America, Inc., 100A Corporate Place, Vallejo, CA 94590, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. SGS North America, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API Chapters	Title
3.....	Tank gauging.
7.....	Temperature Determination.
8.....	Sampling.
9.....	Density Determination.
12.....	Calculations.
17.....	Maritime Measurements.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding

the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf

Dated: July 14, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, July 21, 2014 (79 FR 42344)]

NOTICE OF CANCELLATION OF CUSTOMS BROKERS' LICENSES

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

ACTION: Customs brokers' license cancellations.

SUMMARY: This document provides notice of the cancellation of five (5) customs brokers' licenses without prejudice and the cancellation of one (1) customs broker's license with prejudice.

FOR FURTHER INFORMATION CONTACT: Everett Burns, International Trade Specialist, Broker Management Branch, Office of International Trade, (202) 863-6319.

SUPPLEMENTARY INFORMATION: This document provides notice that, pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and § 111.51(a) of title 19 of the Code of Federal Regulations (19 CFR 111.51(a)), the following customs brokers' licenses and any and all associated permits have been canceled without prejudice.

Last/company name	First name	License No.	Port of issuance
Jose Manuel Solis U.S. Customs-house Brokers, Inc.....	17280	Laredo.
Jarvis International Freight, Inc.	24029	Houston.
SBS Worldwide, Inc.....	23616	Chicago.
Solis	Jose.....	11977	Laredo.
Harlow	David.....	05765	Los Angeles.

This document also provides notice that, pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and section 111.51(b) of title 19 of the Code of Federal Regulations (19 CFR 111.51(b)), the following customs broker's license and any and all associated permits have been canceled with prejudice.

Company name	License No.	Port of issuance
Houston Becnel, Inc.	13061	Houston.

Dated: July 15, 2014.

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

[Published in the Federal Register, July 21, 2014 (79 FR 42341)]

**APPROVAL OF INSPECTORATE AMERICA
 CORPORATION, AS A COMMERCIAL GAUGER**

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

ACTION: Notice of approval of Inspectorate America Corporation, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of April 24, 2014.

DATES: The approval of Inspectorate America Corporation, as commercial gauger became effective on April 24, 2014. The next triennial inspection date will be scheduled for April 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Inspectorate America Corporation, 384 North Post Oak Road, Sulfur, LA 70663, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Inspectorate America Corporation is approved for the following

gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API Chapters	Title
3.....	Tank gauging.
7.....	Temperature determination.
8.....	Sampling.
12.....	Calculations.
14.....	Natural Gas Fluids Measurements.
17.....	Maritime measurement.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf.

Dated: July 11, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services
Directorate.

[Published in the Federal Register, July 21, 2014 (79 FR 42345)]

ACCREDITATION AND APPROVAL OF INTERTEK USA, INC., AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. has been approved to gauge petroleum and

certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of May 8, 2013.

DATES: The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on May 8, 2013. The next triennial inspection date will be scheduled for May 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 804 East North Street, Cushing, OK 74023, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc. is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API Chapters	Title
3.....	Tank gauging.
7.....	Temperature determination.
8.....	Sampling
11.....	Physical property.
12.....	Calculations.
17.....	Maritime measurement.

Intertek USA, Inc. is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	ASTM D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).

CBPL No.	ASTM	Title
27-02.....	ASTM D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-03.....	ASTM D 4006	Standard test method for water in crude oil by distillation.
27-04.....	ASTM D 95	Standard test method for water in petroleum products and bituminous materials by distillation.
27-05.....	ASTM D 4928	Standard test method for water in crude oils by Coulometric Karl Fischer Titration.
27-06.....	ASTM D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-10.....	ASTM D 323	Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method).
27-11.....	ASTM D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity).
27-13.....	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-46.....	ASTM D 5002	Standard test method for density and relative density of crude oils by digital density analyzer.
27-48.....	ASTM D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-50.....	ASTM D 93	Standard test methods for flash point by Pensky-Martens Closed Cup Tester.
27-58.....	ASTM D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).
N/A	ASTM D 4007	Standard test method for water and sediment in crude oil by the centrifuge method (Laboratory procedure).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories: http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf.

Dated: July 11, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services
Directorate.

[Published in the Federal Register, July 21, 2014 (79 FR 42342)]



**ACCREDITATION OF INSPECTORATE AMERICA
CORPORATION, AS A COMMERCIAL LABORATORY**

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

ACTION: Notice of accreditation of Inspectorate America Corporation, as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of May 13, 2014.

DATES: The accreditation of Inspectorate America Corporation, as commercial laboratory became effective on May 13, 2014. The next triennial inspection date will be scheduled for May 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12, that Inspectorate America Corporation, 2184 Jefferson Highway, Litcher, LA 70071, has been accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12. Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	ASTM D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-03.....	ASTM D 4006	Standard test method for water in crude oil by distillation.
27-05.....	ASTM D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27-06.....	ASTM D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-11.....	ASTM D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity).
27-13.....	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-50.....	ASTM D 93	Standard test methods for flash point by Pensky-Martens Closed Cup Tester.

Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific test this entity is accredited to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf.

Dated: July 11, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services
Directorate.

[Published in the Federal Register, July 21, 2014 (79 FR 42346)]

**ACCREDITATION AND APPROVAL OF INSPECTORATE
AMERICA CORPORATION, AS A COMMERCIAL GAUGER
AND LABORATORY**

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

ACTION: Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of February 20, 2014.

DATES: The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on February 20, 2014. The next triennial inspection date will be scheduled for February 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 4717 Santa Elena, Corpus Christi, TX 78405, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API Chapters	Title
3.....	Tank gauging.
7.....	Temperature determination.
8.....	Sampling.
11.....	Physical property.
12.....	Calculations.
17.....	Maritime measurement.

Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	ASTM D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-02.....	ASTM D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-03.....	ASTM D 4006	Standard test method for water in crude oil by distillation.
27-04.....	ASTM D 95	Standard test method for water in petroleum products and bituminous materials by distillation.
27-05.....	ASTM D 4928	Standard test method for water in crude oils by Coulometric Karl Fischer Titration.
27-06.....	ASTM D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08.....	ASTM D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27-11.....	ASTM D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity).
27-13.....	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-14.....	ASTM D 2622	Standard Test Method for Sulfur in Petroleum Products (X-Ray Spectrographic Methods).
27-46.....	ASTM D 5002	Standard test method for density and relative density of crude oils by digital density analyzer.
27-48.....	ASTM D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-50.....	ASTM D 93	Standard test methods for flash point by Pensky-Martens Closed Cup Tester.
27-53.....	ASTM D 2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27-54.....	ASTM D 1796	Standard test method for water and sediment in fuel oils by the centrifuge method (Laboratory procedure).
27-58.....	ASTM D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test

or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov.

Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories: http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf.

Dated: July 8, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services
Directorate.

[Published in the Federal Register, July 21, 2014 (79 FR 42341)]



APPROVAL OF OMNI HYDROCARBON MEASUREMENT, INC., AS A COMMERCIAL GAUGER

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

ACTION: Notice of approval of Omni Hydrocarbon Measurement, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Omni Hydrocarbon Measurement, Inc. has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of February 28, 2014.

DATES: The approval of Omni Hydrocarbon Measurement, Inc., as commercial gauger became effective on February 28, 2014. The next triennial inspection date will be scheduled for February 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Omni Hydrocarbon Measurement, Inc., 914 Kennings Avenue, Crosby, TX 77532, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Omni Hydrocarbon Measurement, Inc. is approved for the following gauging procedures for petroleum and certain petroleum products

per the American Petroleum Institute (API) Measurement Standards:

API Chapters	Title
8.....	Sampling.
10.9.....	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf

Dated: July 8, 2014.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services
Directorate.

[Published in the Federal Register, July 21, 2014 (79 FR 42345)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions

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

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

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Documentation Requirements for Articles Entered

Under Various Special Tariff Treatment Provisions. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before August 20, 2014 to be assured of consideration.

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

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

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (79 FR 26771) on May 9, 2014, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions.

OMB Number: 1651-0067.

Abstract: CBP is responsible for determining whether imported articles that are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 9801.00.10, 9802.00.20, 9802.00.25, 9802.00.40, 9802.00.50, 9802.00.60 and 9817.00.40 are entitled to duty-free or reduced duty treatment. In order to file under these HTSUS provisions, importers, or their agents, must have the declarations that are provided for in 19 CFR 10.1(a), 10.8(a), 10.9(a) and 10.121 in their possession at the time of entry and submit them to CBP upon request. These declarations enable CBP to ascertain whether the requirements of these HTSUS provisions have been satisfied.

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

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 19,445.

Estimated Number of Responses per Respondent: 3.

Estimated Number of Total Annual Responses: 58,335.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 933.

Dated: July 16, 2014.

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

[Published in the Federal Register, July 21, 2014 (79 FR 42340)]

