

U.S. Customs and Border Protection



REVOCATION AND MODIFICATION OF THREE RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE CLASSIFICATION OF AMMONIUM NITRATE COLD COMPRESSES

AGENCY: Bureau of Customs and Border Protection; Department of Homeland Security.

ACTION: Notice of revocation and modification of three classification ruling letters and revocation of treatment relating to the classification of ammonium nitrate cold compresses.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)), this notice advises interested parties that the Bureau of Customs and Border Protection (CBP) is revoking NY L81028, dated December 22, 2004, and modifying HQ W968297, dated May 21, 2007, and NY M81919, dated April 17, 2006, relating to the classification of ammonium nitrate cold compresses. Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin* Vol. 44, No. 24, on June 9, 2010.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after April 7, 2014.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch: (202) 325-0024

SUPPLEMENTARY INFORMATION:

Background

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

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY L81028 and modify HQ W968297 and NY M81919 was published on June 09, 2010, in Volume 44, Number 24, of the *Customs Bulletin*. 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 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.

In NY L81028, NY M81919 and HQ W968297, ammonium nitrate cold compresses were classified in heading 3102, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Mineral or chemical fertilizers, nitrogenous." Since the issuance of those rulings, CBP has reviewed the classification of these ammonium nitrate cold compresses and has determined that the cited rulings are in error.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying NY M81919 and HQ W968297 and revoking NY L81028 and revoke or modify any other ruling not specifically identified, , in order to reflect the proper

classification of the subject cold compresses according to the analysis contained in Headquarters Ruling Letter (HQ) H056864, which is attached to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Ruling Letter HQ H056864 will become effective 60 days after publication in the Customs Bulletin.

Dated: January 9, 2014

GREG CONNOR

For

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H056864

January 9, 2014
CLA-2 OT:RR:CTF:TCM H056864 CKG
CATEGORY: Classification
TARIFF NO.: 3105.10

MS. ELEANORE KELLY-KOBAYASHI
RODE & QUALEY
55 WEST 39TH STREET
NEW YORK, NY 10018

RE: Revocation of NY L81028 and Modification of NY M81919 and HQ W968297; Ammonium Nitrate Cold Compress Pack

DEAR MS. KELLY-KOBAYASHI:

This letter is to inform you that the Bureau of Customs and Border Protection (CBP) has reconsidered the following rulings: New York Ruling Letter (NY) L81028, issued to you on December 22, 2004, on behalf of your client Becton Dickinson and Company, Headquarters Ruling Letter (HQ) W968297, dated May 21, 2007, and New York Ruling M81919, dated April 17, 2006, concerning the classification of ammonium nitrate cold compress packs. In NY L81028, NY M81919, and HQ W968297 CBP determined that ammonium nitrate cold compress packs were classified in heading 3102, HTSUS, which provides for: "Mineral or chemical fertilizers, nitrogenous." We have reviewed these rulings and found that the classification of the cold compresses in heading 3102, HTSUS, was in error. Therefore, this ruling revokes NY L81028 and modifies HQ W968297 and NY M81919.

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 L81028 and modify HQ W968297 and NY M81919 was published on September 4, 2013 in Volume 47, Number 37, of the *Customs Bulletin*. No comments were received in response to this Notice.

FACTS:

The merchandise at issue was described in NY L81028, as follows:

The sample submitted, Ace® Brand Instant Cold Compress is a plastic bag containing ammonium nitrate and water. To use the product, the pack must be squeezed to break the inner liquid bubbles in order to activate the solution. The solution makes the compress instantly cold and it can then be applied to the area requiring treatment. This product is used to help stop pain and swelling.

ISSUE:

Whether the cold compress is classified in heading 3102, HTSUS, as mineral or chemical fertilizers or heading 3105, HTSUS, as goods classifiable in chapter 30, HTSUS, in packages of a gross weight not exceeding 10 kg.

LAW AND ANALYSIS:

GRI 1 provides that classification shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the

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

The provisions at issue are as follows:

3102	Mineral or chemical fertilizers, nitrogenous
3012.30	Ammonium nitrate, whether or not in aqueous solution
3105	Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg
3105.10	Products of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg
*	* * * * *

Note 2 to Chapter 31, HTSUS, provides in relevant part:

Heading 3102 applies only to the following goods, provided that they are not put up in the forms or packages described in heading 3105:

(a) Goods which answer to one or other of the descriptions given below:

...

(ii) Ammonium nitrate, whether or not pure

* * * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs), constitute the official interpretation 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 the headings. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The EN to heading 3102, HTSUS, provides, in pertinent part:

This heading applies only to the following goods, provided that they are not put up in the forms or packages described in heading 3105:

(A) Goods which answer to one or other of the descriptions given below:

...

(2) Ammonium nitrate, whether or not pure

...

"It should be noted that the mineral or chemical products described in the limitative list above are classified in this heading **even when they are clearly not to be used as fertilisers.**"

The EN to heading 3105, HTSUS, provides in relevant part:

The heading also covers the goods of this Chapter if put up in tablets or similar forms or in packages of a gross weight not exceeding 10 kg.

* * * * *

Heading 3105, HTSUS, covers goods of Chapter 31 put up in packages of less than 10 kg. Pursuant to Note 2(a)(ii) to Chapter 31 and EN 31.02, heading 3102, HTSUS, covers ammonium nitrate, even if not used as a fertilizer, provided that it is put up in packages of greater than 10kg. Hence,

ammonium nitrate, even if not used as a fertilizer, is product of Chapter 31. If it is put up in packages greater than 10kg, it falls within heading 3102, HTSUS; if in packages of less than 10kg, it falls under heading 3105, HTSUS.

The instant cold compress contains ammonium nitrate which is not used as a fertilizer, and it is imported in a package weighing less than 10 kg. By application of Note 2 to Chapter 31, HTSUS, EN 31.02, and heading 3105, HTSUS, the instant cold compress is excluded from heading 3102, HTSUS, and is classified in heading 3105, HTSUS, as a good of Chapter 31 (i.e., ammonium nitrate), put up in packages of less than 10 kg.

HOLDING:

Pursuant to GRI 1 and Note 2 to Chapter 31, the cold compress is classified in heading 3105, HTSUS. It is specifically provided for in subheading 3105.10.00, HTSUS, which provides for “Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg: Products of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg.”

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

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

EFFECT ON OTHER RULINGS:

NY L81028, dated December 22, 2004 is hereby revoked; NY M81919 and HQ W968297 are hereby modified.

Sincerely,

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**REVOCATION OF RULING LETTER AND REVOCATION OF
TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF POLYURETHANE COATED GLOVES**

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

ACTION: Notice of revocation of one ruling letter and revocation of treatment relating to the tariff classification of polyurethane coated gloves.

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 Implementa-

tion Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is revoking New York Ruling Letter (NY) N238691, dated February 26, 2013, with regard to the tariff classification of polyurethane coated gloves under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin* Vol. 46, No. 35, on August 22, 2012. Two comments were received in opposition to this notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after April 7, 2014.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch: (202) 325–0024

SUPPLEMENTARY INFORMATION:

Background

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke one ruling letter pertaining to the tariff classification of polyurethane coated gloves was published on August 22, 2012, in

Volume 46, Number 35 of the *Customs Bulletin*. Two 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 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.

In NY N238691, CBP determined that one style of polyurethane coated gloves was classified in heading 3926, HTSUS, which provides for "Other articles of plastics and articles of other materials of headings 3901 to 3914."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N238691 in order to reflect the proper classification of the polyurethane coated gloves in heading 6116, HTSUS, according to the analysis contained in Headquarters Ruling Letter (HQ) H246529, which is attached to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

Dated: January 9, 2014

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

cc:

MR. STEPHAN C. LIU
PACIFIC CENTURY CUSTOMS SERVICE
11099 S. LA CIENEGA BLVD., SUITE 202
LOS ANGELES, CA 90045

MR. TONY GUTERMUTH
GLOBAL COMPONENTS CORPORATION
3429 KNOBS VALLEY DRIVE
FLOYDS KNOBS, IN 47199

H246529

December 20, 2013
CLA-2 RR:CTF:TCM H246529 CKG
CATEGORY: Classification
TARIFF NO: 6116.10.55

RE: Revocation of NY N238691; classification of polyurethane coated gloves

MS. APRIL M. DEJAGER
PERFORMANCE FABRICS, INC.
2000 OAK INDUSTRIAL DRIVE NE
GRAND RAPIDS, MI 49505

DEAR MS. DEJAGER:

This is in reference to New York Ruling Letter (NY) N238691, issued to you on February 26, 2013, which classified one style of polyurethane coated gloves in heading 3926, HTSUS, as articles of plastic. For the reasons set forth below, we have determined that the classification of these gloves in heading 3926, HTSUS, was incorrect.

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 N238691 was published on August 22, 2012, in Volume 46, Number 35, of the *Customs Bulletin*. Two comments were received in opposition to this Notice, and are addressed in this decision.

FACTS:

NY N238691 described the subject merchandise as follows:

Style 2085 is a pair of string-knit work gloves constructed of 50% polyethylene, 29% polyester, 14% glass fiber and 7% spandex with a polyurethane coating which covers the entire palm as well as a portion of the palmside cuff and overlaps the fingers and sides of the wearer's hands. A polyurethane coating has also been applied to the underside fabric of the palms. The glove features an elasticized cuff and an overlock stitch finish at the cuff bottom.

ISSUE:

Whether the subject gloves are classified in heading 3926, HTSUS, as other articles of plastic, or heading 6116, HTSUS, as gloves.

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration are as follows:

3926:	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.20:	Articles of apparel and clothing accessories (including gloves, mittens and mitts):
	Gloves, mittens and mitts:
3926.20.10:	Seamless . . .
	* * * * *
6116:	Gloves, mittens and mitts, knitted or crocheted:
6116.10:	Impregnated, coated or covered with plastics or rubber:
	Other:
	Without fourchettes:
	Other:
6116.10.55:	Containing 50 percent or more by weight of cotton, man-made fibers or other textile fibers, or any combination thereof . . .
	* * * * *

Legal Note 1 to Section XI provides, in pertinent part:

1. This section does not cover:

(h) Woven, knitted or crocheted fabrics, felt or nonwovens, impregnated, coated, covered or laminated with plastics, or articles thereof, of chapter 39;

Note 2 to Chapter 39 provides as follows:

2. This chapter does not cover:

(p) Goods of section XI (textiles and textile articles);

Note 2 to Chapter 59 provides, in pertinent part:

2. Heading 5903 applies to:

(a) Textile fabrics, impregnated, coated, covered or laminated with plastics, whatever the weight per square meter and whatever the nature of the plastic material (compact or cellular), **other than** (emphasis added):

...

(3) Products in which the textile fabric is either completely embedded in plastics or entirely coated or covered on both sides with such material, provided that such coating or covering can be seen with the naked eye with no account being taken of any resulting change of color (chapter 39);

...

(5) Plates, sheets or strip of cellular plastics combined with textile fabric, where the textile fabric is present merely for reinforcing purposes (Chapter 39).

* * * * *

NY N238691 classified one style of polyurethane coated gloves in heading 3926, HTSUS, as articles of plastic. For the reasons set forth below, we believe that these gloves were incorrectly classified in heading 3926, HTSUS, and that they are correctly classified in heading 6116, HTSUS.

Note 2(p) to Chapter 39, HTSUS, states that the Chapter does not cover goods of Section XI (textiles and textile articles). Note 1(h) to Section XI, however, excludes, *inter alia*, articles of knitted or crocheted fabrics coated, covered, impregnated or laminated with plastics, of Chapter 39. Although these notes would appear to conflict, Note 2 to Chapter 59, HTSUS, clarifies the scope of Chapter 39 with regard to textiles coated with plastics and sets out definitive criteria for the determination of which fabrics that have been impregnated, coated, covered, or laminated with plastics are classifiable in Chapter 39, HTSUS, at GRI 1, and thus excluded from Section XI.

Note 2(a)(3) to Chapter 59 directs the classification of textile articles in which the textile fabric is either “completely” embedded or “entirely coated or covered on both sides” by plastics to Chapter 39. The instant gloves are covered only on the inside and outside of the palmside, not including the wrist cuff, and on a portion of the backside fingers (inside and outside). The remainder of the gloves, including the entire back side, are composed of non-coated textile fabric. Thus, the gloves are only partially covered or coated with plastic and are not described by Note 2(a)(3) to Chapter 59 or heading 3926, HTSUS.

Note 2(a)(5) to Chapter 59 directs the classification of cellular plastics combined with textile fabric, where the textile fabric is present merely for reinforcement, to Chapter 39. The instant gloves are not subject to Note 2(a)(5) because they are not combined with cellular plastic. They are governed instead by Note 2(a)(3) to Chapter 59, HTSUS. *See e.g.*, HQ H021883, dated January 5, 2009. In any case, however, the textile component of the instant gloves is present for more than mere reinforcement. The substrate of the gloves is entirely constructed of textile, which gives the gloves their form and shape, thickness, and strength, and which allows them to be put on worn and removed more comfortably.

Heading 6116, HTSUS, provides for gloves. Although heading 6116, HTSUS, is in Section XI, it is only the heading text which controls, not the Chapter or Section titles. Thus, heading 6116, HTSUS, is not limited to textile gloves only. Indeed, the heading text does not limit the classification of gloves of that heading by the material of their construction, only the method of construction (i.e., the glove must be knitted or crocheted). Thus, heading 6116, HTSUS, includes gloves of textiles and plastics, or textiles coated with plastics. The instant glove is made entirely of a knit textile material which is subsequently coated with plastic. At GRI 1, heading 6116, HTSUS therefore captures the merchandise in its entirety.

Even if the gloves were not excluded from Chapter 39 on the basis of Note 2(p) to that Chapter, the EN to heading 3926, HTSUS, indicates that the

heading includes only plastic articles not described more specifically elsewhere in the tariff schedule. Heading 6116, HTSUS, provides for “gloves”, a considerably more specific description of the merchandise than “other article of plastic.” As the subject gloves are more specifically provided for in heading 6116, HTSUS, they are precluded from classification in heading 3926, HTSUS.

We further note that although subheading 3926.20, HTSUS, also provides for gloves of plastic, the instant articles must first meet the terms of the heading before we can consider the application of the accompanying subheadings. As the subject merchandise is not properly classifiable at the four digit level in heading 3926, HTSUS, it is improper to invoke subheading 3926.20, as only the four digit headings are comparable. Furthermore, subheading 6116.10, HTSUS, also provides for gloves impregnated or coated with plastics. It is therefore clear that gloves impregnated with plastics are not automatically or even primarily classified in heading 3926, HTSUS. The relevant chapter, section and explanatory notes clarify when it is appropriate to classify such merchandise in heading 3926, HTSUS—e.g., when they are coated entirely on both sides by plastic, or when the textile material is merely present for reinforcement.

Finally, CBP has classified textile gloves similarly coated, covered, and dipped in plastic material in heading 6116, HTSUS, in multiple rulings. *See* HQ 955193, dated April 19, 1994; HQ 086331, dated April 20, 1990; HQ 086358, dated June 19, 1991; HQ 088539, dated June 6, 1991; HQ 088794, dated July 1, 1991; HQ 953768, dated July 23, 1993; HQ 955193, dated April 19, 1994; HQ 963632, dated September 24, 2002; HQ H021883, dated January 5, 2009; NY N229716, dated September 4, 2012; NY N229595, dated August 14, 2012; NY D81376, dated September 25, 1998; NY D81931, dated August 28, 1998; NY 808945, dated May 3, 1995; and NY 870145, dated January 22, 1992.

In contrast, the following rulings have classified gloves composed entirely or primarily of plastic in heading 3926, HTSUS: NY N188017, dated November 7, 2011; NY L85718, dated July 15, 2005; NY K89356, dated September 21, 2004; NY J89922, dated October 23, 2003; NY H88929, dated March 20, 2002; NY 808945, dated May 3, 1995; NY 883923, dated April 13, 1993; NY 870145, dated January 22, 1992; and PD C80478, dated November 4, 1997.

Moreover, in all of the rulings cited above, CBP based the classification of gloves composed of only textile fabrics with plastic coating solely on GRI 1, noting that some prior rulings had erroneously utilized GRI 3(b) to classify similar merchandise without first considering GRI 1. In HQ 086358, CBP further noted that classification based on GRI 3(b) was appropriate when classifying gloves composed of what the HTSUS would consider to be two or more separate and distinct materials, but that textile gloves which are merely coated with plastic are considered to be made of one material, in which case classification will be according to GRI 1. HQ 088539 is an example of the former scenario. In HQ 088539, CBP determined that the classification of gloves of textile coated or impregnated with plastics is determined at GRI 1 by Note 2 to Chapter 59, but GRI 3(b) would apply when considering the leather pieces of the golf glove at issue. Thus, the classification of the instant gloves, which are knit gloves coated, covered or dipped in plastic, is governed, at GRI 1, by the legal notes to Chapters 39, 59 and

Section XI. *See e.g.*, HQ 088539, *supra* (“Accordingly, as between the plastics and the textile fabric, GRI 1 would require classification under Heading 6116”). *See also* HQ 086358, and HQ 953768, *supra*.

NY N238691 describes the subject gloves as having been coated on the inside fabric of the palms as well as on the outside of the gloves. CBP has classified gloves submerged or dipped in plastic in a similar manner as the gloves at issue in heading 6116, HTSUS. *See, e.g.*, HQ 955193, dated April 19, 1994; HQ 086331, dated April 20, 1990; NY N229716, dated September 4, 2012; NY N229595, dated August 14, 2012; NY D81376, dated September 25, 1998; and NY D81931, dated August 28, 1998. That the instant gloves have plastic on the inside and outside, however, is irrelevant, because they are made of textile material which is neither completely embedded nor entirely coated or covered on both sides with plastic, and the textile material is present for more than mere reinforcement. Even if the palmside of the glove was determined to be completely coated on the outside and inside, we would not consider the textile fabric of the glove to be “completely” embedded or “entirely coated or covered on both sides” by plastics, as the entire wrist cuff and backside of the glove remain uncoated. Thus, the conclusion reached in NY N238691, that merely coating the fabric on both sides is sufficient to render the fabric “completely embedded” or “entirely coated or covered” pursuant to Note 2(a)(3) to Chapter 59 when the coating does not cover the entire fabric, is contrary to the plain language of Note 2(a)(3).

The glove style 2085 was incorrectly classified as an article of plastic of heading 3926, HTSUS. The instant gloves are correctly classified in heading 6116, HTSUS, as gloves. NY N238691 is hereby revoked.

HOLDING:

Style 2085 is classified in heading 6116, HTSUS, specifically subheading 6116.10.55, HTSUS, which provides for “Gloves, mittens and mitts, knitted or crocheted: Impregnated, coated or covered with plastics or rubber: Other: Without fourchettes: Other: Containing 50 percent or more by weight of cotton, man-made fibers or other textile fibers, or any combination thereof.” The 2013 general, column one rate of duty is 13.2%.

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

EFFECT ON OTHER RULINGS:

NY N23869, dated February 26, 2013, is hereby revoked.

Sincerely,

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF THREE RULING LETTERS
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF CHILD
BICYCLE SEATS**

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

ACTION: Notice of proposed revocation of three ruling letters relating to the tariff classification of child bicycle seats designed for attachment to adult bicycles.

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) proposes to revoke three ruling letters relating to the tariff classification of child bicycle seats designed for attachment to an adult bicycle under the Harmonized Tariff Schedule of the United States (HTSUS). CBP also proposes to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before March 7, 2014.

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

FOR FURTHER INFORMATION CONTACT: 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)), this notice advises interested parties that CBP intends to revoke three ruling letters pertaining to the tariff classification of child bicycle seats designed for attachment to adult bicycles. Although in this notice, CBP is specifically referring to the revocation of NY N016953, dated September 21, 2007 (Attachment A), NY N066722, dated July 16, 2009 (Attachment B) and NY N166197, dated June 6, 2011 (Attachment C), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

In NY N016953, NY N066722 and NY N166197, CBP determined that the child bicycle seats designed for attachment to an adult bicycle were classified in subheading 9401.80, HTSUS, which provides, in pertinent part, for “Seats ...: Other seats ...” It is now CBP’s

position that the subject child bicycle seats are properly classified under subheading 8714.99, HTSUS, which provides for “Parts and accessories of vehicles of heading 8711 to 8713: Other: Other ...”

Pursuant to 19 U.S.C. §1625(c)(1), CBP proposes to revoke NY N016953, NY N066722 and NY N166197, and to revoke or to modify any other ruling not specifically identified, in order to reflect the proper classification of child bicycle seats according to the analysis contained in proposed HQ H180103, set forth as Attachment D to this document. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: January 10, 2014

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N016953

September 21, 2007

CLA-2-94:RR:NC:N2:233

CATEGORY: Classification

TARIFF NO.: 9401.80.4045

STEVE NOWICK
CUSTOMS COMPLIANCE SPECIALIST
PANALPINA INC.
800 DEVON AVENUE
ELK GROVE VILLAGE, IL 60007

RE: The tariff classification of a child bicycle seat from China.

DEAR MR. NOWICK:

In your letter dated September 4, 2007 on behalf of Bell Sports, you requested a tariff classification ruling. The sample which you submitted is being returned as requested.

Item number 2000724 Co-Pilot Baby Seat is a child seat designed to be attached to the rear of a bicycle. The seat is composed of plastic which is covered with textile padding for comfort. A metal rack and hardware are included to be used in bolting the seat onto the rear of a bicycle. All parts of the car seat will be produced in Taiwan and China. The parts will be shipped to the manufacturer's premises where they will be assembled and made ready for retail sale.

Classification of goods under the HTSUS is governed by the General Rules of Interpretation (GRI's). GRI 1 provides that "classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to [the remaining GRI's]." In other words, classification is governed first by the terms of the headings of the tariff and any relative section or chapter notes. In as much as the car seat is a composite good [plastic, textile] its classification is governed by GRI 3(b), HTSUS, which reads as follows: (b) Mixtures, composite goods consisting of different materials or made up of different components which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

In general, essential character has been construed to mean the attribute which strongly marks or serves to distinguish what an article is that which is indispensable to the structure, core, or condition of the article.

EN VIII to GRI 3(b), at page 4, provides further factors which help determine the essential character of goods. It reads, as follows: (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 materials or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. You have provided additional information about the product including a value breakdown and a component material breakdown by weight. These breakdowns show that the value and the weight of the plastic component far exceed the value and weight of textile. Further, it is our observation that the plastic component plays a more important role in the use of the product than the textile. Consequently, it is our opinion that plastic imparts the essential character to the car seat.

The applicable subheading for the bicycle seat will be 9401.80.4045, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Seats (other than those of heading 9402) whether or not convertible into beds, and parts thereof: Other seats: Other: Other.” The rate of duty will be free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lawrence Mushinske at 646-733-3036.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT B]

July 16, 2009
CLA-2-94:OT:RR:NC:N4:433
CATEGORY: Classification
TARIFF NO.: 9401.80.2030

FRANCO GRUTTI
SEAJET EXPRESS, INC.
46 ARLINGTON STREET
CHELSEA, MA 02150

RE: The tariff classification of a child's bicycle seat from China.

DEAR MR. GRUTTI:

In your letter dated June 25, 2009, on behalf of Todson Inc., you requested a tariff classification ruling.

Style number TCS2000 is a molded laminated plastic baby seat designed to attach to the rear of a bicycle. The seat will measure 20.3 inches long by 15.6 inches wide by 37.2 inches high and will be attached to the bicycle via a cast aluminum rack. The rack is included with the seat and is bolted to the rear of the bicycle. The chair features dual steel spring suspension, four point harness, adjustable foot rests, padded safety bar and rear reflector.

For tariff classification purposes, the baby seat and the rack form a composite good consisting of different components. The baby seat and the rack are adapted one to the other and together form a whole unit. Such composite goods are classified as if they consisted of the component which gives them their essential character. Weighing various factors such as value, volume, durability and marketability, the component which imparts the essential character of this composite good is the baby seat.

The applicable subheading for the child's bicycle seat will be 9401.80.2030, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Seats (other than those of heading 9402) whether or not convertible into beds, and parts thereof: Other seats: Of rubber or plastics: Of reinforced or laminated plastics: Other." The rate of duty will be Free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Neil H. Levy at (646) 733-3036.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT C]

June 6, 2011
CLA-2-94:OT:RR:NC:N4:433
CATEGORY: Classification
TARIFF NO.: 9401.80.2031

PAUL VROMAN
DHL GLOBAL FORWARDING
2660 20TH STREET
PORT HURON, MI 48060

RE: The tariff classification of a child bike seat from Germany.

DEAR MR. VROMAN:

In your letter dated May 12, 2011, on behalf of Britax Child Safety Inc., you requested a tariff classification ruling. As requested, the sample submitted will be returned.

The Britax Jockey bike seat is a bicycle-mounted child seat. The seat is positioned behind the rider's saddle. The seat is composed of a molded plastic shell with a reversible cover, and has an attached safety harness. Two metal bars, attached to the seat, extend downwards to connect with the bicycle's frame via a steel bracket. This seat features an extra large spoke cover to prevent the child's legs from getting caught within the wheel spokes, adjustable back rest to change the seat position from upright to reclined, and a height adjustable headrest that can move up and down depending upon the child's height. Illustrative and descriptive literature indicate that the seat is suitable for touring or sports bikes of sizes 26 inches to 28 inches, with a tube diameter of 28 to 40mm, and a luggage carrier width of up to 150mm.

For tariff classification purposes under the Harmonized Tariff Schedule of the United States (HTSUS) the bicycle-mounted child seat is composed of different components (plastic, fabric and metal) and is therefore considered a composite good. The plastic molded child seat with fabric covering and bracket unit are adapted one to the other and together form a whole unit. Such a composite good is classified as if it consisted of the material or component that imparts the essential character to the good. Weighing various factors, we find that the plastic molded seat imparts the essential character to the good, in that the seat can function without the fabric covering, allows for the child to accompany the rider of the bicycle, and is marketed and sold as a child's bike seat.

The applicable subheading for the child's bike seat, mounted to the frame and sitting behind the saddle of a bicycle, will be 9401.80.2031, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Seats (other than those of heading 9402) whether or not convertible into beds, and parts thereof: Other seats: Of rubber or plastics: Of reinforced or laminated plastics: Other." The rate of duty will be Free.

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

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

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

imported. If you have any questions regarding the ruling, contact National Import Specialist Neil H. Levy at (646) 733-3036.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT D]

HQ H180103
CLA-2 OT:RR:CTF:TCM H180103 EGJ
CATEGORY: Classification
TARIFF NO.: 8714.99.80

PAUL VROMAN
DHL GLOBAL FORWARDING
2660 20TH STREET
PORT HURON, MI 48060

RE: Revocation of NY N166197, N066722 and N016953: Classification of Child Bicycle Seats

DEAR MR. VROMAN:

This is in reference to New York Ruling Letter (NY) N166197, dated June 6, 2011, issued to you concerning the tariff classification of a child bicycle seat designed for attachment to an adult bicycle under the Harmonized Tariff Schedule of the United States (HTSUS). In that ruling, U.S. Customs and Border Protection (CBP) classified the subject article in heading 9401, HTSUS, which provides for seats. We have reviewed NY N166197 and find it to be in error. For the reasons set forth below, we hereby revoke NY N166197 and two other rulings with substantially similar merchandise: NY N066722¹, dated July 16, 2009 and NY N016953², dated September 21, 2007.

FACTS:

In NY N166197, CBP described the subject merchandise as the Britax Jockey bike seat, which is a bicycle-mounted child seat. The seat is positioned behind the rider's saddle. The seat is composed of a molded plastic shell with a reversible cover, and has an attached safety harness. Two metal bars, attached to the seat, extend downwards to connect with the bicycle's frame via a steel bracket. This seat features an extra large spoke cover to prevent the child's legs from getting caught within the wheel spokes, an adjustable back rest to change the seat position from upright to reclined, and a height adjustable headrest that can move up and down depending upon the child's height. A picture of the Jockey Bike seat is provided below:

¹ In NY N066722, the merchandise is described as follows: "Style number TCS2000 is a molded laminated plastic baby seat designed to attach to the rear of a bicycle. The seat will measure 20.3 inches long by 15.6 inches wide by 37.2 inches high and will be attached to the bicycle via a cast aluminum rack. The rack is included with the seat and is bolted to the rear of the bicycle. The chair features dual steel spring suspension, four point harness, adjustable foot rests, padded safety bar and rear reflector."

² In NY N016953, the merchandise is described as follows: "Item number 2000724 Co-Pilot Baby Seat is a child seat designed to be attached to the rear of a bicycle. The seat is composed of plastic which is covered with textile padding for comfort. A metal rack and hardware are included to be used in bolting the seat onto the rear of a bicycle."



ISSUE:

Is the child bike seat, designed for attachment to an adult bicycle, classified under heading 8714, HTSUS, as an accessory to a bicycle, or under heading 9401, HTSUS, as a seat?

LAW AND ANALYSIS:

Merchandise imported into the United States is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context which requires otherwise, by the Additional U.S. Rules of Interpretation. GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in their appropriate order.

The relevant HTSUS provisions are:

8712	Bicycles and other cycles (including delivery tricycles), not motorized ...			
		*	*	*
8714	Parts and accessories of vehicles of headings 8711 to 8713 ...			
		*	*	*
9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof ...			
		*	*	*

Note 1(h) to Chapter 94 states that:

1. This chapter does not cover:

(h) Articles of heading 8714 ...

* * *

According to GRI 1, we must first examine section notes, chapter notes and the text of the headings. Note 1(h) to Chapter 94 states that articles of heading 8714, HTSUS, are excluded from classification in Chapter 94. Thus, if the child bike seats are classifiable as parts or accessories of bicycles in heading 8714, HTSUS, they cannot be classified as seats in heading 9401, HTSUS.

Heading 8714, HTSUS, provides, *inter alia*, for parts and accessories of bicycles. In *The Pomeroy Collection Ltd. v. United States*, 783 F.Supp. 2d 1257, 1260–1261 (Fed. Cir. 2011), the U.S. Court of Appeals for the Federal

Circuit (CAFC) explains the courts' two tests for "parts" of an article under the HTSUS. The CAFC states, in pertinent part, that:

The appellate court has adopted two tests for determining whether merchandise may be classified as a part of an article. The first is when the article of which the merchandise in question is claimed to be a part "could not function as such article" without the claimed part. *United States v. Willoughby Camera Stores, Inc.*, 21 C.C.P.A. 322, 324, Treas. Dec. 46851, T.D. 46851 (1933) (emphasis and citations omitted); *see also Bauerhin Techs. Ltd. P'ship v. United States*, 110 F.3d 774, 778 (Fed. Cir. 1997) (relying on this "oft-quoted passage" of Willoughby). Thus, for example, a lens that allows a camera to take colored photos is properly a part of such cameras -- without such lens, "cameras could not perform one of their proper functions - the taking of colored pictures," *Willoughby*, 21 C.C.P.A. at 326-27.

The second test by which a piece of merchandise may qualify as a part of another article is if, when imported, the claimed part is "dedicated solely for use" in such article and, "when applied to that use," the claimed part meets the *Willoughby* test. *United States v. Pompeo*, 43 C.C.P.A. 9, 14 (1955). The example here is a supercharger that may be installed in a car engine -- although both the car engine and the supercharger are complete in themselves, the supercharger is dedicated solely for supercharging the car engine, and, when applied to that use -- i.e., when the article being considered is not just a car engine, but a *supercharged* car engine -- the supercharged car engine cannot function without the super charger, and so the *Willoughby* test is met. *See id.* at 13-14. *Id.*

As stated above, the *Willoughby* test for parts of an article is whether the article could still function as such article without the part. 21 C.C.P.A. at 324. Thus, we must determine if the adult bicycle can still function as an adult bicycle without the child bike seat. We find that an adult can still ride the bicycle without the child bike seat. As such, the child bike seat fails the *Willoughby* test for parts. *Id.*

Next, the *Pompeo* test for parts states that the part must be dedicated solely for use with the article at importation. 43 C.C.P.A. at 14. Once the imported part is attached to the article, the part must then also satisfy the *Willoughby* test for parts. *Id.* At importation, the child bike seat is equipped with two metal bars which attach to the adult bicycle's frame. The child bike seat also includes spoke covers which prevent the child's legs from being struck by spinning spokes. As such, we find that the child bike seat is dedicated solely for use with an adult bicycle. However, the second prong of the *Pompeo* test is that, once installed, the adult bicycle must be unable to function as an adult bicycle without the child bike seat. *Pompeo*, 43 C.C.P.A. at 14 *citing Willoughby*, 21 C.C.P.A. at 324. As stated above, an adult bicycle can still function as an adult bicycle without the child bike seat. As such, the child bike seat fails both of the courts' tests for parts of articles and cannot be classified as a part of an adult bicycle.

Next, we must determine if the child bike seat is classifiable as an acces-

sory to an adult bicycle under heading 8714, HTSUS. In *Rollerblade, Inc. v. United States*, the U.S. Court of International Trade (CIT) sets forth the definition for an accessory to an article. 24 C.I.T. 812 (2000), *aff'd by Rollerblade, Inc. v. United States*, 282 F.3d 1349 (2002). The CIT cites with approval CBP Headquarters Ruling Letter (HQ) 958924, dated June 20, 1996, which states, in pertinent part, that:

We, however, have repeatedly noted that an accessory is, in addition to being an article related to a primary article, is [sic in original] used solely or principally with that article. We have also noted that an accessory is not necessary to enable the goods with which they are used to fulfill their intended function. They are of secondary importance, not essential of themselves. They, however, must contribute to the effectiveness of the principal article (e.g., facilitate the use or handling of the principal article, widen the range of its uses, or improve its operation). We have also noted that *Webster's Dictionary* defines an accessory as an object or device that is not essential in itself but adds to the beauty, convenience, or effectiveness of something else. *Id.* at 816 *citing Webster's New World Dictionary of the American Language* 4 (2d Concise Ed. 1978).

The CIT also agrees with CBP's assertion that an "[a]ccessory" is not defined as something that is merely intended to be used at the same time as something else; accessories must serve a purpose subordinate to, but also **in direct relationship** to the thing they 'accessorize.'" *Id.* at 816–817 *citing* Def.'s Mot. Summ. J. at 5–6 (emphasis in original). As such, an accessory must have a direct relationship to the article it accessorizes. Moreover, the accessory must serve a purpose subordinate to the article's purpose. Finally, while an accessory is not essential to the article, it should add to the beauty, convenience or effectiveness of the article.

Examining the child bike seat, we find that it has a direct relationship to the adult bicycle because it attaches directly to the adult bicycle. Moreover, its function of providing a seat for a child is subordinate to the adult bicycle's function of enabling an adult to ride the bicycle. Finally, the child bike seat increases the effectiveness of the adult bicycle. Rather than providing transportation for one adult rider, the child bike seat enables the adult bicycle to transport both one adult and one child. Transporting two people is more effective than transporting one person. As such, we find that the child bike seat is classifiable as an accessory to a bicycle under heading 8714, HTSUS.

Since the child bike seat is classified in heading 8714, HTSUS, Note 1(h) to Chapter 94 excludes it from classification as a seat in heading 9401, HTSUS. For all of the aforementioned reasons, we find that the subject child bike seat is classified as an accessory to an adult bicycle under heading 8714, HTSUS.

HOLDING:

By application of GRI 1 (Note 1(h) to Chapter 94), the child bicycle seat designed for attachment to an adult bicycle is classified in heading 8714, HTSUS. It is specifically classified under subheading 8714.99.80, HTSUS, which provides for "Parts and accessories of vehicles of headings 8711 to 8713: Other: Other: Other..." The 2013 column one, general rate of duty is ten percent *ad valorem*.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are

provided on the Internet at *www.usits.gov/tata/hts/*.

EFFECT ON OTHER RULINGS:

NY N166197, dated June 6, 2011, NY N066722, dated July 16, 2009 and NY N016953, dated September 21, 2007, are hereby revoked.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**REVOCATION OF RULING LETTER AND REVOCATION OF
TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF D-LYSINE**

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 tariff classification of d-lysine.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is revoking New York Ruling Letter (NY) N056378, relating to the treatment of D-Lysine under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, 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. 47, No. 28, on July 3, 2013.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after April 7, 2014.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch: (202) 325–0024

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993 Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057)(hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY N056378 was published on July 3, 2012, in Volume 47, Number 28 of the *Customs Bulletin*. 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 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.

In NY N056378, CBP determined that D-Lysine was eligible for duty-free treatment under General Note 13 of the HTSUS.

Pursuant to 19 U.S.C. 1625(c)(1), CBP proposes to revoke NY N056378 and to revoke or modify any other ruling not specifically identified, in order to reflect the proper treatment of D-Lysine under the HTSUS, according to the analysis contained in Headquarters Ruling Letter (HQ) H091978, which is attached to this document.

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

Dated: January 13, 2014

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H091978

January 13, 2014
CLA-2 OT:RR:CTF:TCM H091978 CkG
CATEGORY: Classification
TARIFF NO.: 2922.41.0010

MS. DINA DONNELLY
ACETO CORPORATION
ONE HOLLOW LANE
LAKE SUCCESS, NY 11042

Re: Revocation of NY N056378; classification of D-Lysine

DEAR MS. DONNELLY,

This is in reference to New York Ruling Letter (NY) N056378, issued by the Customs and Border Protection (CBP) National Commodity Specialist Division on April 6, 2009, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of D-Lysine. We have reconsidered this decision, and for the reasons set forth below, have determined that the conclusion that D-Lysine is eligible for duty free treatment pursuant to General Note 13, HTSUS, is incorrect.

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 N056378 was published on July 3, 2013, in Volume 47, Number 28, of the *Customs Bulletin*. No comments were received in response to this Notice.

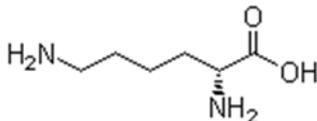
FACTS:

D-lysine (CAS 923–27–3) is an isomer of lysine, an essential amino acid which is not synthesized in animals, and hence must be ingested. D-lysine has a chemical formula of $C_6H_{14}N_2O_2$. A diagram of its chemical structure is included below.

ISSUE:

Whether d-lysine is eligible for duty free treatment pursuant to General Note 13, HTSUS.

LAW AND ANALYSIS:



Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the remaining GRIs 2 through 6. GRI 6, HTSUS, requires that the GRI's be applied at the subheading level on the understanding that only subheadings

at the same level are comparable. The GRI's apply in the same manner when comparing subheadings within a heading.

The HTSUS provisions under consideration are as follows:

2922:	Oxygen-function amino-compounds:
	Amino-acids, other than those containing more than one kind of oxygen function, and their esters; salts thereof:
2922.41.00:	Lysine and its esters; salts thereof . . .
	* * * * *

Subheading Note 1 to Chapter 29:

Within any one heading of this chapter, derivatives of a chemical compound (or group of chemical compounds) are to be classified in the same subheading as that compound (or group of compounds) provided that they are not more specifically covered by any other subheading and that there is no residual subheading named "Other" in the series of subheadings concerned.

General Note 13, HTSUS, provides as follows:

Pharmaceutical products. Whenever a rate of duty of "Free" followed by the symbol "K" in parentheses appears in the "Special" subcolumn for a heading or subheading, any product (by whatever name known) classifiable in such provision which is the product of a country eligible for tariff treatment under column 1 shall be entered free of duty, provided that such product is included in the pharmaceutical appendix to the tariff schedule. Products in the pharmaceutical appendix include the salts, esters and hydrates of the International Non-proprietary Name (INN) products enumerated in table 1 of the appendix that contain in their names any of the prefixes or suffixes listed in table 2 of the appendix, provided that any such salt, ester or hydrate is classifiable in the same 6-digit tariff provision as the relevant product enumerated in table 1.

* * * * *

In NY N056378, CBP classified D-lysine in subheading 2922.41.00, HTSUS, which provides for Lysine and its esters and salts thereof. This classification was correct; D-lysine is an amino acid, and as an isomer of Lysine it shares the same chemical formula. Pursuant to subheading note 1 to Chapter 29, HTSUS, d-lysine is not more specifically covered by any other subheading and there is no residual subheading named "Other" in the series of subheadings concerned.

However, NY N056378 also granted duty free treatment to D-lysine based on GN 13 to the HTSUS, which grants such treatment to products classified in a provision marked by a rate of duty of Free in the "Special" subcolumn followed by the symbol K, provided that the product is also listed in the pharmaceutical appendix to the tariff schedule. However, the symbol "K" does not appear in the "special" subcolumn for subheading 2922.41.00, HTSUS, nor is lysine listed in the pharmaceutical appendix. Lysine was deleted from the pharmaceutical appendix by the Annex to Presidential Proclamation

6982. See Proclamation No. 6982, 64 Fed. Reg. 16,041 (April 1, 1997). Lysine is thus no longer subject to duty free treatment pursuant to GN 13.¹

HOLDING:

D-Lysine is classified in heading 2922, HTSUS, specifically in subheading 2922.41.00, HTSUS, which provides for “Oxygen-function amino-compounds: Amino-acids, other than those containing more than one kind of oxygen function, and their esters; salts thereof: Lysine and its esters; salts thereof.” The 2013 column one, general rate of duty is 3.7% *ad valorem*.

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/tata/hts/.

EFFECT ON OTHER RULINGS:

NY N056378, dated April 6, 2009, is hereby revoked.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

AGENCY INFORMATION COLLECTION ACTIVITIES:

Cost Submission

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

ACTION: 60-day notice and request for comments; extension of an existing collection of information: 1651-0028.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning: Cost Submission. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13; 44 U.S.C. 3507).

DATES: Written comments should be received on or before March 24, 2014, to be assured of consideration.

¹ For this reason, New York Rulings NY 815606, dated October 31, 1995, NY 807431, dated March 13, 1995, and NY 808921, dated April 17, 1995, which applied the pre-1997 version of the HTSUS and the pharmaceutical appendix in granting duty-free treatment to lysine, were revoked by operation of law.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

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

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 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 burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Cost Submission.

OMB Number: 1651–0028.

Form Number: 247.

Abstract: The information collected on Form 247, Cost Submission, is used by CBP to assist in correctly calculating the duty on imported merchandise. This form includes details on actual costs and helps CBP determine which costs are dutiable and which are not. This collection of information is provided for by subheadings 9801.00.10, 9802.00.40, 9802.00.50, 9802.00.60 and 9802.00.80 of the Harmonized Tariff Schedule of the United States (HTSUS) and by 19 CFR 10.11–10.24, 19 CFR 141.88 and 19 CFR 152.106. Form 247 can be found at <http://www.cbp.gov/xp/cgov/toolbox/forms>.

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

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 1,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated time per Response: 50 hours.

Estimated Total Annual Burden Hours: 50,000.

Dated: January 16, 2014.

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

[Published in the Federal Register, January 23, 2014 (79 FR 3843)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

e-Allegations Submission

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

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0131.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the e-Allegations Submission. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507).

DATES: Written comments should be received on or before March 24, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

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

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

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13; 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 burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: e-Allegations Submission.

OMB Number: 1651-0131.

Abstract: In the interest of detecting trade violations to customs laws, Customs and Border Protection (CBP) established the e-Allegations Web site to provide a means for concerned members of the trade community to confidentially report violations to CBP. The e-Allegations site allows the public to submit pertinent information that assists CBP in its decision whether or not to pursue the alleged violations by initiating an investigation. The information collected includes the name, phone number and email address of the member of the trade community reporting the alleged violation. It also includes a description of the alleged violation, and the name and address of the potential violators. The e-Allegations Web site is accessible at <https://apps.cbp.gov/eallegations/>.

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

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals.

Estimated Number of Respondents: 1,600.

Estimated Number of Total Annual Responses: 1,600.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 400.

Dated: January 16, 2014.

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

[Published in the Federal Register, January 23, 2014 (79 FR 3843)]



AGENCY INFORMATION COLLECTION ACTIVITIES:

Declaration of the Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes

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: 1651-0036.

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: Declaration of the Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes. 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. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (78 FR 69101) on November 18, 2013, 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.

DATES: Written comments should be received on or before February 24, 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 *oira_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: 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 burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Declaration of the Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes.

OMB Number: 1651-0036.

Form Number: None.

Abstract: The Declaration of the Ultimate Consignee that Articles were Exported for Temporary Scientific or Educational Purposes is used to document duty free entry under conditions when articles are temporarily exported solely for scientific or educational purposes. This declaration, which is completed by the ultimate consignee and submitted to CBP by the importer or the agent of the importer, is used to assist CBP personnel in determining whether the imported articles should be free of duty. It is provided for under 19 U.S.C. 1202, HTSUS Subheading 9801.00.40, and 19 CFR 10.67(a)(3) which requires a declaration to Customs and Border Protection (CBP) stating that the articles

were sent from the United States solely for temporary scientific or educational use and describing the specific use to which they were put while abroad.

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

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 55.

Estimated Number of Annual Responses per Respondent: 3.

Estimated Number of Total Annual Responses: 165.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 27.

Dated: January 16, 2014.

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

[Published in the Federal Register, January 23, 2014 (79 FR 3842)]

