

U.S. Customs and Border Protection



MODIFICATION OF A RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF A PLASTIC MCQUEEN CAR AND CUP

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

ACTION: Notice of modification of a ruling letter and revocation of treatment relating to the tariff classification of a plastic McQueen car and cup.

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 modifying one ruling letter relating to the tariff classification of a plastic McQueen car and cup, 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 and Decisions*, Vol. 49, No. 20, on May 20, 2015. No comments were received in response to this notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after November 16, 2015.

FOR FURTHER INFORMATION CONTACT: George Aduhene, Tariff Classification and Marking Branch: (202) 325–0184

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 (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), notice proposing to modify HQ H040737 and any treatment accorded to substantially identical transactions was published in the *Customs Bulletin*, Volume 49, No. 20, on May 20, 2015. No comments were received in response to this notice.

As stated in the proposed notice, this modification will cover any ruling on this merchandise that may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the notice period.

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

In HQ H040737, CBP determined that the plastic McQueen car was classified in subheading 3924.10.40, HTSUS, which provides for: “Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics: Tableware and kitchenware: Other.” CBP also determined that the cup was classified in subheading 3924.90.56, HTSUS, which provides for: “Tableware, kitchenware, other house-

hold articles and hygienic or toilet articles, of plastics: Other: Other.” It is now CBP’s position that the McQueen car is classified in subheading 3924.90.56, HTSUS, and the cup is classified in subheading 3924.10.40, HTSUS.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying HQ H040737 and any other ruling not specifically identified, to reflect the proper classification of a plastic McQueen cup and car according to the analysis contained in Headquarters Ruling Letter (“HQ”) H239752, 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 and Decisions*.

Dated: August 13, 2015

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H239752

August 13, 2015

CLA-2 OT:RR:CTF:TCM H239752 GA

CATEGORY: Classification

TARIFF NO.: 3924.10.40; 3924.90.56

Ms. CHRISTINA YUN
MZ BERGER & COMPANY
29-76 NORTHERN BLVD, 4TH FLOOR
LONG ISLAND CITY, NY 11101

RE: Modification of HQ H040737; Classification of McQueen car and cup

DEAR Ms. YUN:

This letter concerns Headquarters Ruling Letter (HQ) H040737, dated July 23, 2009, issued to you regarding the classification of a plastic McQueen car and cup, under the Harmonized Tariff Schedule of the United States (HTSUS). In that ruling, U.S. Customs and Border Protection (CBP) classified the McQueen car in subheading 3924.10.40, HTSUS, which provides for: “Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics: Tableware and kitchenware: Other.” The McQueen cup was classified in subheading 3924.90.56, HTSUS, which provides for: “Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics: Other: Other.” CBP has reviewed HQ H040737 and found an error in the holding. We found that the subheadings for the classification of the McQueen car and cup were reversed contrary to the proper classification determination. We hereby modify HQ H040737 to reflect that the McQueen car is classified in subheading 3924.90.56, HTSUS, and the cup is classified in subheading 3924.10.40, HTSUS.

On May 20, 2015, 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 in the *Customs Bulletin* Vol. 49, No. 20. No comments were received in response to this notice.

FACTS:

The merchandise at issue was a McQueen car and cup. The McQueen car is a plastic car in the likeness of the Disney/Pixar “Cars” character Lightning McQueen. It features a circular depression in the rear portion of the car behind the roof in which to place the plastic cup. The cup features a sticker which states “The Oil Pan Open.” They are packaged together with a plastic tool holder, plastic wrench, screwdriver, pliers and body wash. The box in which the items are packaged identifies the merchandise as the “Cars Tub Time Pit Stop.” The plastic tool holder, plastic wrench, screwdriver, pliers and body wash were previously classified in NY N029461 and were determined not to be a set for classification purposes.

ISSUE:

Whether the McQueen car and cup are classified in heading 9503, HTSUS, as toys or in heading 3924, HTSUS, as “tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics.”

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. The applicable HTSUS provisions at issue are as follows:

9503.00	Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kind; parts and accessories.
3924	Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastic:
3924.10	Tableware and kitchenware:
3924.90	Other:

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs), though not dispositive or legally binding, provide commentary on the scope of each heading of the heading HTSUS, and are the official interpretation of the Harmonized System at the international level. CBP believes the ENs should always be consulted. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The EN to heading 3924, HTSUS, provides in relevant part:

The heading also covers cups (without handles) for table or toilet use, not having the character of containers for the packing or conveyance of goods, whether or not sometimes used for such purposes. It excludes, however, cups without handles having the character of containers used for the packing or conveyance of goods (heading 39.23).

You contend that both the McQueen car and cup are toys and that the McQueen car is marketed as a toy car with a trunk for holding a number of objects to play during and after bath time. You state there is no indication that the car would be used for or associated with drinking and the cup is not sold or marketed as a drinking cup or a rinse cup.

The term "toy" is not defined in the HTSUS. However, the General EN for Chapter 95, HTSUS, states that the "Chapter covers toys of all kinds whether designed for the amusement of children or adults." The U.S. Court of International Trade (CIT) constructs heading 9503, HTSUS, as a "principal use" provision, insofar as it pertains to "toys." *See Minnetonka Brands v. United States*, 110 F. Supp. 2d 1020, 1026 (Court of International Trade 2000). Thus, to be a toy, the "character of amusement involved [is] that derived from an item which is essentially a plaything." *Wilson's Customs Clearance, Inc. v. United States*, 59 Cust. Ct. 36, C.D. 3061 (1967). For articles governed by principal use, Additional U.S. Rule of Interpretation 1(a), HTSUS, provides that, in the absence of special language or context which otherwise requires, such 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.” In other words, the article’s principal use at the time of importation determines whether it is classifiable within a particular class of or kind.

While Additional U.S. Rule of Interpretation 1(a), provides general criteria for discerning the principal use of an article, it does not provide specific criteria for individual tariff provisions. However, the CIT has provided factors which are indicative but not conclusive, to apply when determining whether merchandise falls within a particular class or kind. They include: general physical characteristics, the expectation of the ultimate purchaser, channels of trade, environment of sale (accompanying accessories, manner of advertisement and display), use in the same manner as merchandise which defines the class, economic practicality of so using the import, and recognition in the trade of this use. See *United States v. Carborundum Company*, 63 CCPA 98, C.A.D. 1172, 536 F. 2d 373 (1976), cert. denied, 429 U.S. 979 (hereinafter *Carborundum*). For articles that are both amusing and functional, we look to *Ideal Toy Corp. v. United States*, 78 Cust. Ct. 28 (1977), in which the court stated that “when amusement and utility become locked in controversy, the question becomes one of determining whether amusement is incidental to the utilitarian purpose, or whether the utility purpose is incidental to the amusement.” That is, not all merchandise that provides amusement is properly classified in a toy provision.

In this instance, while the McQueen car and rinse cup may be amusing, the articles are a functional cup holder and cup. The rinse cup is designed to fit into the circular depression at the back of the McQueen car. As such, we find that their amusing quality is incidental to their utilitarian purpose and that they are not classifiable in heading 9503, HTSUS. Heading 3924, HTSUS, is organized into categories followed by a general phrase “other household articles.” “When a list of items is followed by a general word or phrase, the rule of *ejusdem generis* is used to determine the scope of the general word or phrase.” *Avenues in Leather, Inc. v. United States*, 178 F.3d 1241, 1244 (Fed Cir. 1999). In classification cases, *ejusdem generis* requires that ... the subject merchandise must possess the same essential characteristics or purposes that unite the listed examples proceeding the general term.” *Id.* Under a *ejusdem generis* analysis, we “must consider the common characteristics or unifying purpose of the listed exemplars in a heading as well as consider the specific primary purpose of the imported merchandise.” *Id.* “[C]lassification ... under *ejusdem generis* is appropriate only if the imported merchandise shares the characteristics or purpose and does not have a more specific primary purpose that is consistent with the listed exemplars.” *Id.*

The essential characteristics and purpose of the categories of goods listed in heading 3924, HTSUS, is to store or contain food and beverages. See *SGI, Incorporated v. United States*, 122 F.3d 1468 (Fed Cir. 1997). Further, the McQueen car and cup are *ejusdem generis* with those articles cited in the EN to heading 3924, HTSUS, as exemplars of tableware and kitchenware insofar as the cup is principally classified in heading, 3924, HTSUS.

HOLDING:

Pursuant to GRI 1, we find the McQueen car and cup are classified in heading 3924, HTSUS. The McQueen cup is classified in subheading 3924.10.40, HTSUS, which provides for: “Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics: Tableware and kitchenware: Other.” The column one, general rate of duty is 3.4 percent *ad valorem*. The McQueen car is properly classified in subheading 3924.90.56, HTSUS, which provides for: “Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics: Other: Other.” The column one, general rate of duty is 3.4 percent *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*.

EFFECT ON OTHER RULINGS:

HQ H040737, dated July 23, 2009, is hereby MODIFIED.

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

Sincerely,

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division


**PROPOSED MODIFICATION OF RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE ORIGIN MARKING OF CERTAIN BOXES OF TISSUES**

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

ACTION: Notice of proposed modification of one ruling letter and proposed revocation of any treatment relating to the origin marking of certain boxes of tissues.

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 modify one ruling letter, New York Ruling Letter (NY) N261615, dated March 11, 2015, relating to the origin marking of certain boxes of tissues. Similarly, CBP is proposing to revoke any

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

DATES: Comments must be received on or before October 16, 2015.

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

FOR FURTHER INFORMATION CONTACT: Ross Cunningham, Valuation and Special Programs Branch, at (202) 325–0034.

SUPPLEMENTARY INFORMATION:

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify one ruling letter pertaining to the origin marking of certain boxes of tissues. Although in this notice, CBP is specifically referring to the modification of New York Ruling Letter (NY) N261615, dated March 11, 2015, this notice covers any rulings on these products 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 (19 U.S.C. § 1625 (c)(2)), as amended by section 623 of Title VI, 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.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP proposes to modify New York Ruling Letter (NY) N261615, dated March 11, 2015, in accordance with the analysis set forth in proposed Headquarters Ruling Letter (HQ) H263571 (Attachment B). Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: July 22, 2015

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N261615

March 11, 2015
MAR-2 OT:RR:NC:N4: 234
CATEGORY: MARKING

DONALD S. STEIN
GREENBERG TRAURIG, LLP
ATTORNEYS AT LAW
210 STREET, N.W., SUITE 100
WASHINGTON, D.C.20037

RE: THE COUNTRY OF ORIGIN MARKING OF BOXES OF TISSUE PAPER.

DEAR MR. STEIN:

In your letter dated February 2, 2015, on behalf of Kimberly-Clark Corporation (“KCC”), you requested a ruling concerning the marking of boxes of tissues.

The items in question are boxes of tissues. Jumbo rolls of tissue paper manufactured in the United States will be converted to tissue paper products in Canada, Mexico, China and Korea. You indicated that there are three scenarios that you would like our office to consider.

The country of origin for marking purposes is defined at 134.1(b), Customs Regulations (19 CFR 134.1(b), to mean the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the country of origin within the meaning of part 134; however, for a good of a NAFTA Country, the NAFTA Marking Rules will determine the country of origin. A substantial transformation occurs when an article loses its identity and becomes a new article having a new name, character or use.

In the first scenario, U.S. origin jumbo rolls of tissue paper are sent to Canada or Mexico and are converted into boxes of tissues. These finished products are then re-imported back into the United States.

With regard to NAFTA eligibility, HTSUSA General Note 12(t)/48 requires a change to headings 4817 through 4822 from any heading outside that group, except from heading 4823. The manufacturing in Canada or Mexico causes a shift in tariff headings from 4803 to 4818, Harmonized Tariff Schedule of the United States (HTSUS), as such we agree that the country of origin of the boxes of tissue is Canada or Mexico.

In the second scenario, U.S. origin jumbo rolls are sent to Korea and are converted into the finished boxes of tissues. These finished products are then re-imported back into the United States.

With regard to US-Korea FTA rule of origin, HTSUS General Note 33(o)/48 requires a change to headings 4808 through 4823 from any other heading. The manufacturing in Korea causes a shift in tariff headings from 4803 to 4818, Harmonized Tariff Schedule of the United States (HTSUS), which qualifies as a substantial transformation. We agree that the country of origin of the boxes of tissue is Korea.

In the third scenario, U.S. origin jumbo rolls are sent to China and are converted into boxes of tissue. These finished products are then re-imported back into the United States.

In this case, the jumbo rolls from the United States were substantially transformed as a result of the processing in China to create a new article, the boxes of tissues. China is considered to be the country of origin of the boxes of tissues.

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 Albert Gamble at Albert.Gamble@dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER,

Director

National Commodity Specialist Division

ATTACHMENT B

HQ H263571
OT:RR:CTF:VS H263571 RMC
CATEGORY: Classification

DONALD S. STEIN
GREENBERG TRAURIG, LLP
2101 L St. NW, SUITE 1000
WASHINGTON, DC 20037

Re: Modification of New York Ruling Letter (NY) N261615, dated March 11, 2015; Country of Origin Marking of Boxes of Tissue Paper; NAFTA; UKFTA

DEAR MR. STEIN:

This is in reference to New York Ruling Letter (NY) N261615 issued to you on behalf of your client, Kimberly Clark LLC, on March 11, 2015. In your ruling request, you ask CBP to confirm the country of origin of facial tissues manufactured in Canada, Mexico, Korea, or China from U.S. origin jumbo rolls of tissue paper. However, for Canada, Mexico, and Korea, you only cite to the preferential rules for Canada, Mexico, and Korea of the North American Free Trade Agreement (“NAFTA”) and the U.S.-Korea Free Trade Agreement (“UKFTA”), and for China you discuss the substantial-transformation test. Therefore, we will consider this as a request for preferential tariff treatment and country of origin marking for the goods imported from Canada, Mexico and Korea, and a request for marking for China.

NY N261615 held that the country of origin of the tissues in each of the three cases would be the country where the jumbo rolls are cut into facial tissues. It has come to our attention that several errors were made in NY N261615’s analysis.

FACTS:

As described in NY N261615, you asked us to confirm the country of origin of boxes of facial tissues under three scenarios:

1. U.S. origin jumbo rolls of tissue paper are sent to Canada or Mexico and are converted into boxes of tissues. These finished products are then re-imported to the United States.
2. U.S. origin jumbo rolls of tissue paper are sent to Korea and are converted into finished boxes of tissues. These finished products are then re-imported to the United States.
3. U.S. origin jumbo rolls of tissue paper are sent to China and are converted into finished boxes of tissues. These finished products are then re-imported to the United States.

You state that the U.S. origin jumbo rolls of tissue paper are classified under subheading 4803.00, Harmonized Tariff Schedule of the United States (“HTSUS”), and that the finished boxes of tissues are classified under subheading 4818.20.00, HTSUS. In your submission, you included photographs of the jumbo rolls of tissue paper and the finished products, a diagram of the manufacturing process, and a description of each step in the manufacturing process.

ISSUE:

- I. Whether the boxes of facial tissues are eligible for preferential tariff treatment under NAFTA and UKFTA.
- II. What are the country-of-origin marking requirements of the boxes of facial tissue?

LAW AND ANALYSIS:

I. Eligibility for NAFTA Preference and Country of Origin Marking Requirements of Boxes of Tissues Cut in Mexico or Canada

A. Eligibility for NAFTA Preference

The NAFTA is implemented in General Note (GN) 12, HTSUS. GN 12(a) states that goods are eligible for the NAFTA rate of duty if they originate in the territory of a NAFTA party and qualify to be marked as goods of Mexico (or Canada). GN 12(b) sets forth the methods for determining whether a good originates in the territory of a NAFTA party and provides, in relevant part:

For the purposes of this note, goods imported into the customs territory of the United States are eligible for the tariff treatment and quantitative limitations set forth in the tariff schedule as “goods originating in the territory of a NAFTA party” only if—

(i) they are goods wholly obtained or produced entirely in the territory of Canada, Mexico and/or the United States; or

(ii) they have been transformed in the territory of Canada, Mexico and/or the United States so that—

(A) except as provided in subdivision (f) of this note, each of the non-originating materials used in the production of such goods undergoes a change in tariff classification described in subdivisions (r), (s) and (t) of this note or the rules set forth therein, or

(B) the goods otherwise satisfy the applicable requirements of subdivisions (r), (s) and (t) where no change in tariff classification is required, and the goods satisfy all other requirements of this note; or

(iii) they are goods produced entirely in the territory of Canada, Mexico and/or the United States exclusively from originating materials.

Here, counsel states that the jumbo rolls are made from U.S. originating materials. Provided that records and a certificate of origin are available to show that the rolls are made from originating materials, the finished boxes of tissues will be eligible for NAFTA preferential treatment under GN 12(b)(iii) as “goods produced entirely in the territory of Canada, Mexico and/or the United States exclusively from originating materials.” If the rolls are not produced from U.S.-originating materials, the finished boxes of tissues may still qualify for NAFTA preference because they will meet the tariff-shift requirement per GN 12(t)48.6, which requires “[a] change to headings 4817 through 4822 from any heading outside that group, except from heading

4823.” A qualifying shift occurs here because the jumbo rolls are classified under heading 4803, while the finished product is classified under heading 4818.

B. Marking Requirements

We next have to determine whether the boxes of facial tissue qualify to be marked as a product of Mexico or Canada. The hierarchy set forth in 19 C.F.R. § 102.11 is applicable to determine the country of origin marking of goods produced in countries that are a party to the NAFTA. NY N261615’s analysis of the country of origin of the tissues imported from Canada or Mexico was incorrect because it did not apply the rules in 19 C.F.R. § 102. While counsel cites the GN 12 rules, those rules apply only when an importer is requesting preferential treatment under NAFTA. Goods still must qualify to be marked, and the rules contained in 19 C.F.R. § 102 must be applied.

Under 19 C.F.R. § 102.11, the country of origin for non-textile goods is determined to be the country in which:

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

Section 102.1(g), CBP Regulations (19 C.F.R. 102.1(g)), defines a good wholly obtained or produced as “[a] good produced in that country exclusively from goods referred to in paragraphs (g)(1) through (g)(10) of this section or from their derivatives, at any stage of production.” Here, because the tissues are cut from jumbo rolls from the United States, they cannot qualify as “a good wholly obtained or produced” in either Canada or Mexico. The country of origin of the tissues thus cannot be determined under 19 C.F.R. § 102.11(a)(1).

The next step in the hierarchy is to consider whether the country of origin may be determined under section 102.11(a)(2). Under this section, the origin of the good may be based on the origin of the materials used to produce the good, provided that the good is produced exclusively from domestic materials. Section 102.1(d), CBP Regulations (19 C.F.R. § 102.1(d)), defines domestic material as “a material whose country of origin as determined under these rules is the same country as the country in which the good is produced.” Because the tissues are produced from raw materials from the United States, the country of origin cannot be determined under section 102.11(a)(2). The analysis must continue to 19 C.F.R. 102.11(a)(3).

Under 19 C.F.R. § 102.11(a)(3), the country of origin of a good is the country in which “each foreign material incorporated in that good undergoes an applicable change in tariff classification set out in § 102.20 and satisfies any other applicable requirements of that section.” Section 102.1(e), CBP Regulations (19 C.F.R. § 102.1(e)) defines “Foreign material” as “a material whose country of origin as determined under these rules is not the same country as the country in which the good is produced.” Here, the foreign materials are the jumbo rolls of tissue paper from the United States, which are classified under subheading 4803.00, HTSUS. The final product, made in either Mexico or Canada, is classified under subheading 4818.20.00, HTSUS.

For goods classified under HTSUS subheading 4818.20, 19 C.F.R. § 102.20 requires a shift “from any other heading, including another heading within that group, except for a change to heading 4818 from sanitary towels and tampons, napkin and napkin liners for babies, and similar sanitary articles, of paper pulp, paper, cellulose wadding, or webs of cellulose fibers, of heading 9619.” A qualifying shift occurs here because the jumbo rolls are classified under heading 4803. Because the foreign material in the tissue boxes undergoes the required tariff shift, we continue to hold, as in NY N261615, that the country of origin of the finished product will be the country where the conversion from jumbo rolls to tissue occurs (either Canada or Mexico).

II. Eligibility for UKFTA Preference and Marking Requirements of Boxes of Tissues Cut in Korea

A. Eligibility for UKFTA Preference

The requirements for eligibility for preferential tariff treatment under the UKFTA are set forth in Note 33 to the General Notes to the Harmonized Tariff System (“HTSUS”) (19 U.S.C. § 1202). This note provides in pertinent part:

- (b) For the purposes of this note subject to the provisions of subdivisions (c), (d), (n) and (o) thereof, a good imported into the customs territory of the United States is eligible for treatment as an originating good of a UKFTA country under the terms of this note if-
 - (i) The good is wholly obtained or produced entirely in the territory of Korea or of the United States, or both.
 - (ii) The good is produced entirely in the territory of Korea or of the United States, or both, and-
 - A. Each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in subdivision (o) of this note; or
 - B. The good otherwise satisfies any applicable regional value-content or other requirements set forth in such subdivision (o); and satisfies all other applicable requirements of this note and of applicable regulations; or
 - (iii) The good is produced entirely in the territory of Korea or of the United States, or both, exclusively from materials described in subdivisions (i) or (ii), above.

Here, counsel states that the jumbo rolls are made from U.S. originating materials. Provided that supporting documents are available to show that the rolls are made from originating materials, the finished tissue boxes will be eligible for UKFTA preferential treatment under GN 33(b)(iii) as “goods produced entirely in the territory of Korea or of the United States or both.” If the rolls are not produced from U.S.-originating materials, the finished boxes of tissues may still qualify for UKFTA preference because they will meet the tariff shift requirement in GN 33(o)48.2, which requires “change to headings 4808 through 4823 from any other heading.” A qualifying shift occurs because the jumbo rolls are classified under heading 4803, while the finished product is classified under heading 4818.

B. Marking Requirements

As noted above, the tissues cut in Korea qualify for preferential treatment under UKFTA. Unlike NAFTA, however, UKFTA does not have special marking rules. NY N261615 therefore erred in applying General Note 33, which applies only in the context of determining eligibility for preference under UKFTA. The standard marking rules apply, and the finished product will be considered a product of Korea only if the jumbo rolls undergo a “substantial transformation” when they are converted into facial tissue.

19 C.F.R. § 134.1 implements the country-of-origin marking requirements and the exceptions set forth in 19 U.S.C. § 1304. Section 134.1(b), Customs Regulations (19 CFR § 134.1(b)), defines “country of origin” as the country of manufacture, production or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a **substantial transformation** in order to render such other country the “country of origin” within the meaning of the **marking** laws and regulations.

CBP has previously found that cutting rolls of tissue to size does not constitute “substantial transformation” under 19 C.F.R. § 134.1. In Headquarters Ruling HQ 563306, dated Sept. 20, 2005, for example, we held that jumbo tissue rolls that are cut to size, folded, and packaged into gift tissue paper did not undergo a substantial transformation. Instead, that processing was considered “mere finishing operations.” *See also* HQ W967977, dated Oct. 5, 2006; HQ 557462, dated Sept. 13, 1994.

Here, as in the cases cited above, cutting rolls of tissues to size constitutes “mere finishing operations,” not substantial transformation. We therefore find that the country of origin of the finished tissues remains the United States, the country where the jumbo tissue rolls were produced.

III. Country of Origin of Boxes of Tissues Cut in China

NY N261615 applied the substantial-transformation test and concluded that “the jumbo rolls from the United States were substantially transformed as a result of the processing in China” and that “China is considered to be the country of origin of the boxes of tissues. Based on the substantial-transformation analysis above, we disagree. Like the tissues cut in Korea, the tissues cut in China will remain a product of the United States because they will not be substantially transformed.

We note that marking the finished boxes of tissues as products of the United States is a matter under the jurisdiction of the Federal Trade Commission. If Kimberly Clark wants to mark the finished boxes of tissues with the phrase “Made in the USA” or a similar phrase, we recommend that you contact the agency at the following address: Federal Trade Commission, Division of Enforcement, 600 Pennsylvania Ave. NW, Washington DC 20580.

HOLDING:

We hold that the finished tissues imported from Canada (or Mexico) are eligible for preferential treatment under NAFTA, and should be marked as a product of Canada (or Mexico). The finished tissues imported from Korea are eligible for preferential treatment under UKFTA, but will remain a product of the United States for country of origin marking purposes as the jumbo rolls will not be substantially transformed in Korea. Similarly, the tissues im-

ported from China will remain a product of the United States as the jumbo rolls will not be substantially transformed in China.

EFFECT ON OTHER RULINGS:

New York Ruling Letter (NY) N261615, dated Mar. 11, 2015, is hereby modified.

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

Sincerely,

MYLES B. HARMON,

Director

National Commodity Specialist Division

19 CFR PART 177

**MODIFICATION OF TWO RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CERTAIN BLIND RIVET
NUTS**

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

ACTION: Final notice of modification of a ruling letter and revocation of treatment concerning the tariff classification of certain blind rivet nuts.

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 CBP is modifying two ruling letter pertaining to the tariff classification of certain steel blind rivet nuts under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment any treatment previously accorded by it to substantially identical transactions. Notice of the proposed modification was published on May 27, 2015, in Volume 49, Number 21 of the *Customs Bulletin*. No comments were received.

EFFECTIVE DATE: The revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after November 16, 2015.

FOR FURTHER INFORMATION CONTACT: Emily Beline, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, (202) 325–7799.

SUPPLEMENTARY INFORMATION:

On December 8, 1993, Title VI, of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), (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 § 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c) (1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), a notice was published in the *Customs Bulletin*, in Volume 49, Number 21, on May 27, 2015, proposing to modify New York Ruling Letter (NY) H88897, dated March 5, 2002, and NY M82161, dated April 19, 2006, and proposing to revoke any treatment accorded to substantially identical transactions. No comments were received in response to this notice.

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. This treatment may, among other reasons, be the result of the importer’s reliance on a ruling issued to a third party, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer’s or CBP’s previous interpretation of the HTSUS. Any person involved in substantially identical transactions should have advised CBP during the aforementioned 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 H88897, CBP classified a steel blind rivet nut under subheading 7318.19.00, HTSUS, which provides for “Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel: threaded articles: other.” Similarly, in NY M82161, CBP also classified a steel blind rivet nut (CAL series), in subheading 7318.19.00, HTSUS, as “other” than a nut. It is now CBP’s position that steel blind rivet nuts are “nuts” for classification purposes, and are properly classified under subheading 7318.16.00, HTSUS, as “Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel: threaded articles: nuts.” The remainder of both rulings, specifically regarding blind rivet studs and threaded brass inserts, respectively, remains intact.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying NY H88897, and NY M82161, and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling (HQ) H195840, (Attachment A). 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: August 18, 2015

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H195840

August 18, 2015

CLA-2 OT: RR: CTF: TCM: H195840 ERB

CATEGORY: Classification

TARIFF NO.: 7318.16.0060

Ms. MONICA CANTU

UPS TRADE MANAGEMENT SERVICES, INC.

12380 MORRIS ROAD

ALPHARETTA, GA 30005

MR. BRUCE THELEN

DICKINSON WRIGHT PLLC

500 WOODWARD AVENUE, SUITE 4000

DETROIT, MI 48226-3425

RE: Modification of NY H88897; Modification of NY M82161; Tariff classification of steel blind rivet nuts

DEAR MR. THELEN AND MS. CANTU:

U.S. Customs and Border Protection (CBP) issued New York Ruling (NY) H88897 on March 5, 2002 to Bollhoff Rivnut Inc. (Bollhoff). NY H88897 pertains to the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS), of three models of blind rivet nuts and blind rivet studs. CBP issued NY M82161 on April 19, 2006 to UPS Trade Management Services, Inc. on behalf of its client, Sherex Fastening Solutions, LLC (Sherex). NY M82161 also regarded the tariff classification of a steel blind rivet nut from Sherex's CAL series. We have since reviewed NY H88897 and NY M82161 and find them to be in error with respect to the classification of the steel blind rivet nuts, which are described in detail herein. The remainder of NY H88897 regarding steel blind rivet studs, and NY M82161, regarding the threaded brass inserts, remains intact.

Pursuant to Section 615(c) of the 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), CBP is modifying NY H88897, and revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed revocation was published on May 27, 2015, in Volume 49, Number 21 of the *Customs Bulletin*. No comments were received in response to the proposed notice.

FACTS:

In NY H88897, dated March 5, 2002, CBP stated the following:

You have described your items as blind rivet nuts and blind rivet studs. The nuts will be made of steel and aluminum. ... The diameters of these fasteners come in various metric sizes (mm). You state that all these items are threaded and intended for fastening and securing sheet metal and plastic materials.

The applicable subheading for the steel blind rivet nuts will be 7318.19.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for screws, bolts, nuts, coach screws, screw hooks, rivets,

cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel: threaded articles: other. The duty rate will be 5.7% ad valorem.

On November 22, 2011, Bollhoff submitted to this office a request for reconsideration and modification of NY H88897, stating that the steel blind rivet nuts should be classified in subheading 7318.16.00, HTSUS, which provides for “Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel: threaded articles: nuts.” On November 19, 2012, Bollhoff provided a supplement to its request for reconsideration and modification of NY H88897. The supplement included seven exhibits of industry standards, as well as a letter from the Industrial Fasteners Institute (Exhibit 1, dated November 2, 2012, authored by Joe Greenslade, Director of Engineering Technology). This information was factored into the analysis herein.

In NY M82161, dated April 19, 2006, CBP stated the following:

The merchandise pictured here is described as follows:

1. [b]lind rivet nuts (CAL series)
 - steel and stainless steel
 - sizes range from 6/31” to 3/8” – 16 and M4 to M10
 - internally threaded
 - installs from one side
 - screw or bolt installs into blind rivet nut

The applicable subheading for the steel blind rivet nuts (item 1)..., will be 7318.19.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel: threaded articles: other. The rate of duty will be 5.7% ad valorem.

ISSUE:

Whether a threaded article which is used to fasten a bolt, is used as a nut, but is riveted into place is considered a “nut” for tariff classification purposes, under subheading 7318.16.00, HTSUS, or whether it is classified as “other” than a nut, under subheading 7318.19.00, HTSUS.

LAW AND ANALYSIS:

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

The HTSUS subheading provisions under consideration in this case are as follows:

- | | |
|------|--|
| 7318 | Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel: |
|------|--|

Threaded articles:

7318.16.00	Nuts
7318.19.00	Other

Because the instant classification analysis occurs beyond the four-digit heading level, GRI 6 is implicated. GRI 6 states:

For legal purposes, the classification of goods in the subheading of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and *mutatis mutandis* to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter, and subchapter notes also apply, unless the context otherwise requires.

Subheading 7318.16.00, HTSUS, which provides for “nuts” is an *eo nomine* provision. “An *eo nomine* designation with no terms of limitation, will ordinarily include all forms of the named article.” *Carl Zeiss, Inc. v. United States*, 195 F.3d 1375, 1379 (Fed. Cir. 1999) (quoting *Hayes-Sammons Chem. Co. v. United States*, 55 C.C.P.A. 69, 75 (1968)). That said, “[w]hen an object is in character or function something other than as described by a specific statutory provision – either more limited or more diversified – and the difference is significant, it cannot find classification within such [*eo nomine*] provision.” *Casio, Inc. v. United States*, 73 F.3d 1095, 1097 (Fed. Cir. 1996), citing *Robert Bosch Corp. v. United States*, 63 Cust. Ct. 96, 103–04, Cust. Dec. 3881 (1969). Therefore, CBP must first define what a “nut” is for tariff classification purposes. Then, CBP will determine whether the subject rivet nut’s characteristics render it more diverse than the intended scope for “nuts” of subheading 7318.16.00, HTSUS.

The term “nut” is not defined by the tariff. The courts have held that in determining the proper meaning of a tariff provision, “the correct meaning of the term is its common commercial meaning.” *Arko Foods Int’l, Inc. v. United States*, 654 F.3d 1361, 1364 (Fed. Cir. 2011). To determine the common commercial meaning Customs may rely upon “its own understanding of terms used, and may consult standard lexicographic and scientific authorities.” *Airflow Tech., Inc. v. United States*, 524 F.3d 1287, 1291 (Fed. Cir. 2008).

The Explanatory Notes of the Harmonized Commodity Description and Coding System (ENs) provide commentary on the scope of each heading of the Harmonized System¹. Classification at the heading level is not in dispute here, however, the ENs are germane as regards what a “nut” is, since it is listed at the heading and subheading level. The EN to 73.18 Subsection (A) Screws, Bolts and Nuts states, in relevant part:

Nuts are metal pieces designed to hold the corresponding bolts in place. They are usually tapped throughout but are sometimes blind. The heading includes wing nuts, butterfly nuts, etc. Lock nuts (usually thinner and castellated) are sometimes used with bolts.

The scope of the subheadings under heading 7318, HTSUS, has been the

¹ The Harmonized Commodity Description and Coding System (ENs), constitute the official interpretation of the Harmonized System at the international level, and provides commentary on the scope of each heading. It is generally indicative of the proper interpretation of the HTSUS. See T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989).

subject of many rulings issued by this office, as well as an “*Informed Compliance Publication*” entitled, “*What Every Member of the Trade Community Should Know About: Fasteners of Heading 7318*”, which was published in April 2012. Therein, “nuts” are defined as “internally threaded fasteners designed to hold the corresponding bolt in place.” *Id* at page 12.

Myriad commercial standards exist regarding what constitutes a nut. The American National Standards Institute (ANSI) is a private, non-profit organization that oversees the development of voluntary consensus standards. It also accredits standards developed by other standards organizations. Relevant here is the standard created by the American Society of Mechanical Engineers (ASME), endorsed by ANSI. ANSI/ASME’s *Glossary of Terms for Mechanical Fasteners* (ASME B18.12–2012), subsection 3.2.1.1. defines a nut as: “a perforated block having an internal or female screw thread, designed to assemble with an external or male screw thread, such as those on a bolt or other threaded part. Its intended function is fastening, adjusting transmitting motion, or transmitting power with a large mechanical advantage and nonreversible motion.”² Section 3.2.1 which regards Nuts as a whole, then goes on to list more than 40 types of nuts of varying sizes, dimensions, and features, which make the nut suitable for different and specific usages.³

Thus, in reading the above collectively, a nut is defined broadly as a type of fastener which is internally threaded and often but not always used opposite a mating bolt which fastens the materials together. This describes the subject rivet nuts as they are internally threaded fasteners, installed into a parent material for the attachment of a mating part with a screw. Specifically, the subject rivet nuts are riveted within sheet metals or plastic material as assembly components to provide an internal thread length and prevent the rotation of that thread while a bolt or screw is rotated into the thread. In other words, it clamps multiple assembly components together when tapped threads are not possible due to small wall thickness or hollow components.

As mentioned, the subject rivet nuts have characteristics uncommon to nuts. They differ from the common hexagon nut, in that common hex nuts are generally torqued to turn it onto a stationary bolt, screw, or other threaded fastener. Here, the subject rivet nuts are installed onto a mandrel, placed in the hole, and the user pulls the tool trigger and the mandrel retracts causing the unthreaded exterior shank of the rivet nut to expand behind the parent material, riveting it into place. That said, the article will still be given its claimed *eo nomine* classification notwithstanding the existence of this additional feature, because it does not transform the character of the article as a “nut.” This is consistent with previous CBP rulings regarding nuts with additional characteristics still being classified as “nuts” under the tariff. See NY N167096, dated June 7, 2011 (classifying 3/8 hex flange nuts in subheading 7318.16.00, HTSUS); NY 844719, dated September 13, 1989 (classifying four articles in subheading 7318.16.00, HTSUS: first, a floating plate nut, described as a steel threaded nut element combined with a steel base. The base has two rivet holes which enable it to be fixed in place to loosely hold the

² Glossary of Terms for Mechanical Fasteners, ASME B18.12–2012 [Revision of ASME B18.12–2001], Section 3.2 Internally Threaded Products, Subsection 3.2.1. Nuts.

³ To name a few nuts: barrel nuts, butterfly nut, flange nut, hexagon nut, jam nut, plate nut, tee nut, wing nut.

nut element in place. Second, an A.R.E. nut, consisting of a steel threaded nut element combined with a steel base with a ribbed annular neck. Third, a dome nut, and fourth a nonfloating, multi-component nut); and NY N192135, dated November 23, 2011 (classifying a steel fastener called a Round Rivet Nut, in subheading 7318.16.00, HTSUS). See also Headquarters Ruling (HQ) 959570, dated December 20, 1996 (where CBP stated, “the inner cap nut functions not only to secure a truck or trailer’s inner wheel onto a stud by means of its internal thread, but also to serve as a base onto which the outer wheel is mounted and secured by a lug nut tightening onto its external thread. This is a significant additional function not associated with nuts of subheading 7318.16.00, HTSUS,” citing NY 829971, dated June 7, 1998).

HOLDING:

By application of GRI 1, the subject rivet nuts are specifically provided for in subheading 7318.16.0060, HTSUS, which provides for, “screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel: threaded articles: nuts: Other: Of stainless steel.” The 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 at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY H88897 and NY M82161, are hereby MODIFIED, as regards the tariff classification of the steel blind rivet nuts.

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

ALLYSON MATTANAH

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 FOOTWEAR FROM CHINA**

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 footwear from China.

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

one ruling letter relating to the tariff classification of footwear from China, 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 and Decisions*, Vol. 49, No. 26, July 1, 2015. No comments were received in response to this Notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after November 16, 2015.

FOR FURTHER INFORMATION CONTACT: George Aduhene, Tariff Classification and Marking Branch: (202) 325-0184

SUPPLEMENTARY INFORMATION:

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

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), notice proposing to revoke NY N219385, dated June 20, 2012 and any treatment accorded to substantially identical transactions was published in the *Customs Bulletin*, Vol. 49, No. 26, July 1, 2015. No comments were received in response to this notice.

As stated in the proposed notice, this revocation will cover any rulings on this merchandise that may exist but have not been specifically identified. Any party who has received an interpretive ruling

or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the notice period.

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

In NY N219385, CBP determined that the submitted half-pair sample identified as style "Patent" did not have a "foxing-like band" and classified the merchandise in subheading 6402.99.3165, HTSUSA, which provides for, "Other footwear with outer soles and uppers of rubber or plastics: Other footwear: Other: Other: Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather): Other: Other: Other: For women: Other." CBP also determined that half-pair samples identified as styles "Crushed Velvet" and "Dead Tiedye" did not have a "foxing-like band" and classified the merchandise in subheading 6404.19.3960, HTSUSA, which provides for, "Footwear with outer soles of rubber, plastics, leather, or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear of subheading 6404.19.20 and except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper: Other: Other: Other: For women." It is now CBP's position that style "Patent" is classified in subheading 6402.99.80, HTSUS, and the "Crushed Velvet" and "Dead Tiedye" are classified in subheading 6404.19.89, HTSUS.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N219385 and any other ruling not specifically identified, to reflect the proper classification of the style "Patent" and the styles "Crushed Velvet" and

“Dead Tiedye” according to the analysis contained in Headquarters Ruling Letter (“HQ”) H237647, set forth as an attachment 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.

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

Dated: August 19, 2015

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H237647

August 19, 2015

CLA-2 OT:RR:CTF:TCM H237647 GA

CATEGORY: Classification

TARIFF NO.: 6402.99.80, 6404.19.89

MR. MICHAEL S. O'ROURKE

RODE & QUALEY

55 WEST 39TH STREET

NEW YORK, NY 10018

RE: Revocation of NY N219385; Classification of footwear from China

DEAR MR. O'ROURKE:

This letter is in response to your request of December 11, 2012, on behalf of your client, Magpie Consulting LLC d/b/a SWYT Culture, for reconsideration of NY N219385, dated June 20, 2012, concerning the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of three styles of slip-on footwear from China. The National Commodity Specialist Division (NCSA) forwarded your request to this office for a response. Two samples (identified as "Crushed Velvet" and "Patent") of the merchandise were submitted with your request and will be returned.

In NY N219385, U.S. Customs and Border Protection (CBP) determined that style "Patent" was classified in subheading 6402.99.3165, HTSUSA, which provides for, Other footwear with outer soles and uppers of rubber or plastics: Other footwear: Other: Other: Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having a foxing or a foxing-like band applied or molded at the sole and overlapping the upper and except footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather): Other: Other: Other: For women: Other."

In NY N219385, CBP also determined that styles "Crushed Velvet" and "Dead Tiedye" were classified in subheading 6404.19.3960, HTSUSA, which provides for, "Footwear with outer soles of rubber, plastics, leather, or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear of subheading 6404.19.20 and except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper: Other: Other: Other: For women."

We have reviewed NY N219385 and found it to be incorrect for the reasons set forth below.

On July 1, 2015, 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 in the *Customs Bulletin* Vol. 49, No. 26. No comments were received in response to this notice.

FACTS:

In NY N219385, style "Patent" was described as follows:

The submitted half-pair sample identified as style “Patent,” is a women’s closed toe/heel slip-on “ballet flat” with a rubber or plastics outer sole and upper. There is a small section of elasticized material at the rear of the topline of the shoe which helps keep it snug to the wearer’s foot. The shoe is neither “protective” nor does it have a foxing or a foxing-like band.

In NY N219385, styles “Crushed Velvet” and “Dead Tiedye” were described as follows:

The submitted half-pair samples identified as styles “Crushed Velvet” and “Dead Tiedye” are women’s closed toe/heel slip-on “ballet flats” with rubber or plastics outer soles and textile materials uppers. There is a small section of elasticized material at the rear of the topline of each shoe which helps them snug to the wearer’s foot. The shoes are neither “protective” nor do they have a foxing or a foxing-like band.

Samples have been submitted for our examination. The styles have molded rubber/plastics outer soles that overlap the uppers by 1/4 inch, or more, measured on a vertical plane. The overlap substantially encircles the perimeter of the shoes over 60 percent. The value of the footwear is from \$7.20 - \$8.50.

ISSUE:

What is the proper classification of the footwear?

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.

The HTSUS provisions under considerations are as follows:

- 6402 Other footwear with outer soles and uppers of rubber or plastics:
- Other footwear
- 6402.99 Other:
- Other:
- Having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to this chapter) is rubber or plastics (except footwear having a foxing or foxing-like band applied or molded at the sole and overlapping the upper and except footwear designed to be worn over, in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather):

Other:

6402.99.31	Other
	Other:
	For women:
6402.99.3165	Other
* * *	
	Other:
6402.99.80	Valued over \$6.50 but not over \$12/pair
* * * * *	
6404	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials:
	Footwear with outer soles of rubber or plastics:
6404.19	Other:
	Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear of subheading 6404.19.20 and except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper:
	Other:
6404.19.39	Other
	Other:
6404.19.3960	For women
* * *	
	Other
	Valued over \$6.50 but not over \$12/pair:
6404.19.89	Other

Counsel argues that NY N219385, dated June 20, 2012, is inconsistent with an Informed Compliance Notice issued by a CBP port, which described the footwear as having foxing-like bands. It has submitted samples for our examination.

Subheadings 6402.99.3165 and 6404.19.3960, HTSUSA, provide for footwear without foxing or foxing-like bands. The issue we must address is whether the footwear in question is constructed with foxing-like bands. The term “foxing-like” is not defined in the HTSUS or the Explanatory Notes. On November 17, 1993, CBP published Treasury Decision (T.D.) 93–88, dated October 25, 1993, in the *Customs Bulletin*, Vol. 27, No. 46. In T.D. 93–88, CBP stated that the typical “foxing band” was “a rubber tape, about 1 inch

high 1/16 inch thick, which covers the lower part of the upper and the edge of the rubber outsole” CBP stated that the term “foxing-like band” was defined as “a band around a substantial portion of the lower part of the upper which either has been attached (cemented, sewn, etc.) to the sole or is part of the same molded piece of rubber or plastics which forms the sole.”

In T.D. 83–116, dated June 22, 1983, CBP set forth guidelines relating to the characteristics of foxing and foxing-like bands. CBP noted that unit molded footwear is considered to have a foxing-like band if a vertical overlap of 1/4 inch or more exists from where the upper and the outer sole initially meet (measured on a vertical plane), and that if the overlap is less than 1/4 inch, the footwear is presumed not to have a foxing-like band.

In T.D. 92–108, dated 25, 1992, *Custom Bulletin* Vol. 26, No. 48, CBP set forth its position regarding the interpretation of the term “substantially encircle” as it relates to “foxing and foxing-like bands.” In so doing, CBP formally adopted the “40–60 rule,” which is the measurement used by CBP to assist in making a determination regarding encirclement. Generally, under this rule, an encirclement of less than 40 percent of the perimeter of the footwear by the band does not constitute foxing or a foxing-like band. An encirclement, of between 40 percent to 60 percent of the perimeter of the footwear by the band, may or may not constitute a foxing or foxing-like band depending on whether the band functions or looks like a foxing. An encirclement of over 60 percent of the perimeter of the footwear by the band is always considered substantial encirclement.

An examination of the samples submitted by counsel reveals that the styles of footwear at issue have molded rubber/plastics outer soles that overlap the uppers by 1/4 inch, or more, measured on a vertical plane. Additionally, and for each style, the overlap substantially encircles the perimeter of the shoe over 60 percent. Accordingly, the instant footwear is constructed with foxing-like bands.

HOLDING:

Pursuant to GRIs 1 and 6, style “Patent” is classified in heading 6402, HTSUS, specifically, in subheading 6402.99.80, HTSUS, which provides for, “Other footwear with outer soles and uppers of rubber or plastics: Other footwear: Other: Other: Other: Valued over \$6.50 but not over \$12/pair.” The column one, general rate of duty is \$.90/pr + 20% percent *ad valorem*.

Styles “Crushed Velvet” and “Dead Tiedye” are classified in heading 6404, HTSUS, specifically, in subheading 6404.19.89, HTSUS, which provides for “Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Other: Valued over \$6.50 but not over \$12/pair: Other.” The column one, general rate of duty is \$.90/pr + 20% percent *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.

EFFECT ON OTHER RULINGS:

NY N219385, dated June 20, 2012, 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



19 CFR PART 177

**PROPOSED REVOCATION OF RULING LETTERS AND
TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF EMERGENCY ROADSIDE KITS**

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

ACTION: Notice of proposed revocation of ruling letters and treatment relating to the classification of emergency roadside kits.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625 (c)), this notice advises interested parties that U.S. Customs and Border Protection (“CBP”) is proposing to revoke 13 ruling letters relating to the tariff classification of roadside emergency kits under the Harmonized Tariff Schedule of the United States (“HTSUS”). CBP also proposes to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATES: Comments must be received on or before October 16, 2015. .

ADDRESSES: Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Commercial Trade and Regulations Branch, 90K St NE, Washington, D.C., 20229–1177. Submitted comments may be inspected at U.S. Customs and Border Protection, 90K Street NE, Washington, D.C., 20229–1177, 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: Nerissa Hamilton-vom Baur, Tariff Classification and Marking Branch, at (202) 325–0104.

SUPPLEMENTARY INFORMATION:**Background**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke thirteen ruling letters pertaining to the tariff classification of emergency roadside kits. Although in this notice, CBP is specifically referring to the revocation of Headquarters Ruling Letter (HQ) 964937, dated March 19, 2002, HQ 084074, dated July 3, 1989, HQ 965021, dated March 19, 2002, HQ 950678, dated December 30, 1991, HQ 951092, dated February 11, 1992, HQ 951943, dated June 26, 1992, New York Ruling Letter (NY) D87008, dated February 3, 1999, NY E80250, dated April 19, 1999, NY E81728, dated May 17, 1999, NY I81218, dated May 17, 2002, NY J86419, dated July 1, 2003, NY N008721, dated April 9, 2007, and NY N080536, dated November 13, 2009, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the 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 advise CBP during this notice period.

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

In the above cited rulings, CBP found that emergency roadside kits containing a range of articles packaged together to enable motorists to address roadside emergencies did not constitute a retail set for purposes of GRI 3(b), and classified the items separately pursuant to GRI 1.

We have reviewed these rulings and determined that the classification decisions set forth therein is incorrect. It is now our position that the emergency roadside kits in each ruling are properly classified pursuant to GRI 3(b) as "retail sets."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke HQ 964937 dated March 19, 2002 (Attachment A), HQ 084074, dated July 3, 1989 (Attachment B), HQ 965021, dated March 19, 2002 (Attachment C), HQ 950678, dated December 30, 1991 (Attachment D), HQ 951092, dated February 11, 1992 (Attachment E), HQ 951943, dated June 26, 1992 (Attachment F), New York Ruling Letter (NY) D87008, dated February 3, 1999 (Attachment G), NY E80250, dated April 19, 1999 (Attachment H), NY E81728, dated May 17, 1999 (Attachment I), NY I81218, dated May 17, 2002 (Attachment J), NY J86419, dated July 1, 2003 (Attachment K), NY N008721, dated April 9, 2007 (Attachment L), and NY N080536, dated November 13, 2009 (Attachment M), and any other ruling not specifically identified, to reflect the proper classification of this merchandise according to the analysis contained in the proposed HQ H031458 (Attachment N). 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: August 21, 2015

ALLYSON MATTANAH
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

HQ 964937

March 19, 2002

CLA-2 RR:CR:GC DBS

CATEGORY: Classification

TARIFF NOS.: 3824.90.28; 3917.33.00;
3919.10.20; 3920.20.00; 3926.90.98; 4202.92.90;
4911.99.80; 6307.10.20; 7326.90.85; 8211.93.00;
8506.80.00; 8536.10.00; 9801.00.10

MR. JUAN DOMINGUEZ
WAL-MART STORES, INC.
702 SW 8TH ST.
BENTONVILLE, AR 72716-0410

RE: Emergency Roadside Kits; GRI 3(b) sets

DEAR MR. DOMINGUEZ:

This is in response to your letter of January 3, 2001, to the Director, National Commodity Specialist Division, New York, requesting the classification of a "99 piece Emergency Roadside Kit" under the Harmonized Tariff Schedule of the United States (HTSUS). Your letter was referred to this office for reply. A sample was submitted. We regret the delay in responding.

FACTS:

The "99 piece Emergency Roadside Kit" (Stock # SDA178) consists of a 10' battery booster cable, accident information guide, emergency thermal blanket, radiator water bag, 2 light sticks, 2 hose clamps, gas siphon, vinyl glove, a paper flag that reads "Emergency Help Call Police," red shop towel, multi-function knife, flashlight, 2 D-size batteries, poncho, roll of radiator repair tape, 6 blade fuses, 27 cable nylon ties, flammable tire sealer and first aid kit, all packed inside a soft-sided plastic, reinforced, zippered bag with straps. The bagged is monogrammed with the words "Emergency Roadside Kit" and the triangular yellow symbol for emergencies. The kit is intended to be stored in a vehicle.

ISSUE:

Whether the "99 piece Emergency Roadside Kit" may be classified as goods put up in sets for retail sale.

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that articles are to be classified by the terms of the headings and relative Section and Chapter Notes. For an article to be classified in a particular heading, the heading must describe the article, and not be excluded therefrom by any legal note. In the event that goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

There is a variety of merchandise at issue, classifiable in numerous headings. GRI 3 must be considered in the classification of merchandise put up in sets for retail sale. GRI 3(b) provides that:

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.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. Customs believes the ENs should always be consulted. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN (X) to GRI 3(b) sets forth the following criteria for classification as goods put up in sets for retail sale. The merchandise must: (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings. Therefore, for example, six fondue forks cannot be regarded as a set within the meaning of this Rule; (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).

The subject kit “consist[s] of at least two different articles which are, *prima facie*, classifiable in different headings,” and the kit is “put up in a manner suitable for sale directly to users without repacking.” However, the kit does not “consist of products or articles put up together to meet a particular need or carry out a specific activity.”

Customs has consistently maintained that a roadside emergency is not a particular need or specific activity. *See* HQ 083828, dated June 9, 1989; HQ 950678, dated December 30, 1991; HQ 950332, dated December 30, 1991; HQ 951092, dated February 11, 1992; HQ 951943, dated June 26, 1992. The exemplar sets in EN(X) fall within the meaning of GRI 3(b) because the items within the sets are related to one another in such a fashion that they interact together to serve a distinct purpose or function to enable a singular result to be achieved. For example, in EN(X)(2) hairdressing sets consisting of a pair of electric hair clippers, a pair of scissors, a brush and a towel, put up in a leather case, are sets within the meaning of 3(b) because all of the items are used in concert to achieve groomed hair.

The goods at issue do not interact together to meet a particular need or carry out a specific activity. Rather, the items remedy a variety of automobile and other roadside emergencies and only a few of the items may be used in concert. A flat tire would require the use of no more than three of the items in the kit, i.e., the tire sealer, poncho (if its raining), flashlight and batteries (if needed for visibility). A dead car battery would require the booster cables. The first aid kit can be used for various things (a bee sting, a cut, a blister), but would not be used while siphoning gas. There are numerous needs fulfilled by this kit, but no one particular need. Therefore, the kit is not classifiable as goods put up in a set for retail sale. Accordingly, each item must be classified individually.

HOLDING:

The articles contained in the “99 piece Emergency Roadside Kit” are classified as follows:

The first aid kit and the flammable tire sealer are made in the U.S. and merely packaged abroad with the other items. These two items are entitled to duty-free treatment in subheading 9801.00.10, HTSUS, provided the documentation requirements of section 10.1, Customs Regulations (19 CFR 10.1), are met. Otherwise, the first aid kit is classifiable in subheading 3006.50.00, HTSUS, as first-aid boxes and kits. The applicable subheading for the tire sealer is 3824.90.91, HTSUS, which provides for “Prepared binders for foundry molds or cores, chemical products and preparations of the chemical or allied industries..., not elsewhere specified or included: other: other: other: other: other.”

The battery booster cable is classifiable in subheading 8544.41.8000, HTSUS the provision for “Insulated (including enameled or anodized) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fiber cables, made up of individually sheathed fibers, whether or not assembled with electric conductors or fitted with connectors: other electric conductors, for a voltage not exceeding 80 V: fitted with connectors: other.”

The accident information guide is classifiable in subheading 4901.10.0040, HTSUS, the provision for “Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets: In single sheets, whether or not folded: other.”

The emergency blanket is classifiable in subheading 3920.20.0000, which provides for “Other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials: of polymers of polyene.”

The radiator water bag is classifiable in subheading 3926.90.98, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other”

The light sticks are classifiable in subheading 3824.90.28, HTSUS, the provision for, “Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included: other: other: mixtures containing 5 percent or more by weight of one or more aromatic or modified aromatic substances: other.”

The hose clamps are classifiable in subheading 7326.90.85, HTSUS, which provides for “Other articles of iron or steel: other: other.”

The gas siphon is classifiable in subheading 3917.33.00, HTSUS, which provides for “Tubes, pipes and hoses and fittings therefor (for example, joints, elbows, flanges), of plastics: other tubes, pipes and hoses: other, not reinforced or otherwise combined with other materials, with fittings.”

The pair of vinyl gloves is classifiable in subheading 3926.20.40, HTSUS, which provides for “Other articles of plastics and articles of other materials of heading 3901 to 3914: Articles of apparel and clothing accessories (including gloves): gloves: other: other.”

The paper “Emergency Help Call Police” flag is classifiable in subheading 4911.99.80, which provides for “Other printed matter, including printed pictures and photographs: other: other: other.”

The red shop towel is classifiable is subheading 6307.10.20, HTSUS, which provides for “Other made up articles, including dress patterns: Floor-cloths, dish-cloths, dusters and similar cleaning cloths: other: shop towels dedicated for use in garages, filling stations and machine shops.”

The multi-functional pocket utility knife is classifiable in subheading 8211.93.00, HTSUS, which provides for “Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades and other base metal parts thereof: other: knives having other than fixed blades.”

The flashlight is classifiable in subheading 8513.10.20, HTSUS, which provides for “Portable electric lamps designed to function by their own source of energy (for example, dry batteries, storage batteries, magnetos), other than lighting equipment of heading 8512; parts thereof: Lamps: Flashlights.”

The D-size batteries are classifiable in subheading 8506.80.00, HTSUS, which provides for “Primary cells and primary batteries; parts thereof: other.”

The polyethylene poncho is classifiable in subheading 3926.20.90, HTSUS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Articles of apparel and clothing accessories (including gloves): other: other.”

The roll of radiator repair tape is classifiable in subheading 3919.10.20, HTSUS, which provides for “Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls: In rolls of a width not exceeding 20 cm: other.”

The blade fuses are classifiable in subheading 8536.10.00, HTSUS, which provides for “Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 V: fuses.”

The cable nylon ties are classifiable in subheading 3926.90.98, HTSUS, which provides for “Other articles of plastics and articles of other materials of heading 3901 to 3914: other: other.”

The soft-sided case that houses the kit is classifiable in subheading 4202.92.90, HTSUS, which provides for “Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: other: other.”

Sincerely,

JOHN DURANT,

Director

Commercial Rulings Division

[ATTACHMENT B]

HQ 084074

July 3, 1989

CLA-2 CO:R:CV:G: 084074 JLV

CATEGORY: Classification

TARIFF NO.: 8414.80.10; 8544.41.00; 8203.20.00;
8204.20.00; 8205.40.00; 8211.93.00; 3005.10.50;
3919.10.20; 3926.20.10

MR. DAVID C. YEZEK
KARL SCHROFF & ASSOCIATES, INC.
9757 W. FARRAGUT ST.
CHICAGO, ILLINOIS 60018

RE: Emergency repair kit consisting of air compressor, tools, and light packaged in a tool box

DEAR MR. YEZEK:

In an undated letter, received by Customs on March 6, 1989, you requested on behalf of your client C&O Enterprises, Inc., Northbrook, Illinois, a tariff classification ruling on an article called a "45 piece Repair Emergency Kit." A sample and advertising literature were submitted. Our classification ruling follows.

FACTS:

The article is a Model KC332C repair kit consisting of a 9-piece 1/4-inch drive socket set with screwdriver handle driver, two screwdrivers, a utility knife, plastic insulation tape approximately 2cm in width, tire pressure gauge, fuses, 4 first aid adhesive strips, a plastic tray for these items, booster cables, siphon hose, a pair of disposable seamless plastic gloves, and a rigid plastic tool box measuring approximately 7 inches by 8 inches by 12 inches with a 4-inch circular opening in one end. Mounted inside the box is a 200psi air compressor and mounted on the end of the box at the opening is a 25W light. The compressor and light, equipped with an adaptor plug for a receptacle such as that for an automotive cigarette lighter, are designed to operate from a 12 volt DC power source.

The repair kit is advertised as a repair emergency kit for "Car, RV, Boat or for the House" and as a "highway Emergency Kit" that meets the emergency needs "of motorists, truckers, campers, or boaters" and "for the home."

In a ruling letter of July 22, 1988 (file 081427), we held that an auto visor kit, consisting of a small mirror, comb, memo pad and pencil, in a folding, plastic container with a zipper map pocket and an eyeglass holder, was classified under General Rule of Interpretation (GRI) 1 of the Harmonize Tariff Schedule of the United States Annotated (HTSUSA) as a motor vehicle accessory in subheading 8708.99.50. In a ruling letter of June 9, 1989 (file 083828), we held that a combination of items packaged and marketed in a plastic-reinforced vinyl bag as a motor vehicle emergency repair kit was not classifiable under GRI 1 as a motor vehicle accessory because it was not an accessory within the meaning of heading 8708.

ISSUE:

What is the classification of a combination tool kit, air compressor, and work light?

LAW AND ANALYSIS:

Classification under the HTSUSA is governed by the GRI.

GRI 1 states, in pertinent part, that classification shall be determined according to the terms of the headings and any relative section and chapter notes, and provided such headings or notes do not otherwise require, according to the rules that follow GRI 1. GRI 2 is not applicable. GRI 3 states, in pertinent part, that when, for any other reason [other than GRI 2(b)], goods are prima facie classifiable under two or more headings, classification shall be according to the rules that follow. In this case, it appears that the repair kit is classifiable under several headings: as an accessory for motor vehicles in heading 8708; as a set under the heading for the article which gives the set its essential character; or as separate articles under various headings (GRI 3(a)).

Although described as an emergency repair kit for an automobile, classification as a motor vehicle accessory is precluded because, as stated in our ruling of June 9, 1989, on the classification of a similar emergency kit, the repair kit is not within the meaning of the term “accessory” because it does not facilitate the use of a motor vehicle, does not widen the range or use of a motor vehicle, does not improve the operation of a motor vehicle, and is not identifiable as being intended solely or principally for use with a motor vehicle.

The compressor and light, although designed to operate from power supplied through a common motor vehicle cigarette lighter receptacle, the uses are for many things other than for motor vehicles, i.e., around the home to inflate basketballs or bicycle tires, in a travel camper, or in marine locations.

The various headings under which the individual components are classified each refer to part only of these items in a set put up for retail sale. Therefore, under GRI 2(a) and 2(b), if the article is a set, it is classified as if it consisted of the component which gives the set its essential character. Explanatory Note X to GRI 3(b) establishes three criteria for determining whether an article consists of “goods put up in sets for retail sale.” In this case, at least two of the components are prima facie classifiable in different headings (compressor in heading 8414, socket set in heading 8204) and are put up in a manner suitable for sale directly to users without repacking. The third criterion requires that the goods consist of products or articles put up together to meet a particular need or carry out a specific activity. These goods do not meet this criterion. The adhesive strips, siphon tube, and disposable gloves do not meet the defined need (repair) for which the other components have been assembled.

Therefore, the goods would be individually classified as follows: the compressor, plastic box, and electric light as a single item (physically and functionally one item) are classified as a compressor in subheading 8414.80.10; the slip joint pliers in subheading 8203.20.40; the sockets with handle in subheading 8204.20.00; the screwdrivers in subheading 8205.40.00; the utility knife in subheading 8211.93.00; the air pressure gauge in subheading 9026.20.80; the adhesive bandages in subheading 3005.10.50; the plastic self-adhesive tape in subheading 3919.10.20; the seamless plastic gloves in subheading 3926.20.10; and the booster cables in subheading 8544.41.00, HTSUSA. The rates of duty will depend on the country of origin for each of the articles.

HOLDING:

The emergency repair kit is not classified as a set; each component is separately classified as stated in this ruling.

Sincerely,
JOHN DURANT,
Director
Commercial Rulings Division

[ATTACHMENT C]

HQ 965021

March 19, 2002

CLA-2 RR:CR:GC DBS

CATEGORY: Classification / Intellectual Property
Rights (IPR)

TARIFF NOS.: 3005.10.50; 3917.33.00;
3406.00.00; 3605.00.00; 3919.10.20; 3920.20.00;
3926.20.90; 4202.92.90; 4203.29.15; 4803.00.40;
5609.00.40; 8211.93.00; 8506.80.00; 8513.10.20;
8544.41.80

MS. LESLIE ARAKI
SST INTERNATIONAL, INC.
10415 S. LA CIENEGA BLVD.
P.O. BOX 45055
LOS ANGELES, CA 90045

RE: Emergency Roadside Kits; GRI 3(b) sets; IPR Infringement

DEAR MS. ARAKI:

This is in response to your letter of April 5, 2001, to the Director, National Commodity Specialist Division, New York, on behalf of California Safety Limited, requesting the classification of an auto emergency kit, under the Harmonized Tariff Schedule of the United States (HTSUS). Your letter was referred to this office for reply. A sample was submitted. We regret the delay in responding.

FACTS:

The "Auto Emergency Kit" consists of a siphon pump, polyethylene poncho, polyethylene safety vest, tea light candles, matches, flashlight, batteries, emergency thermal blanket, 14' tow rope with forgen hooks and plastic guards, 8' booster cable, retractable utility knife with blade, bungee cord, roll of radiator repair tape, self-adhesive bandages and paper towellettes, a pair of work gloves of suede leather and woven man-made fabric, all packed inside a soft-sided plastic, reinforced, zippered bag with straps. The black bag is monogrammed on one side with a picture of a broken-down car with a man looking under the hood and a small red triangle signifying a hazard is behind the car. The kit is intended to be stored in a vehicle. The kit will ultimately be packed and sold in a box marked with the country of origin.

The battery in the Auto Emergency Kit is a "AA" sized dry cell battery. Approximately three quarters of the battery is black, and one fourth is copper colored. The copper colored portion is at the positive side of the battery. On the black portion of the battery are the words "new TITEN," in copper, and a rainbow line underlines the words. "TITEN" is followed by the ® symbol. There is an additional warning and size information. Below are pictures of the battery at issue:

TMK 02-00064 (Reg. No. 1,144,787)

According to the registration certificate for Gillette Co.'s "copper top and black" design battery trademark, U.S. Patent and Trademark Office registration number 1,144,787, which is pictured above, the drawing is lined or marked for the color metallic brown, embodying a copper tint. The copper color is located at the top of the battery, which would be the positive side of

the battery. The trademark is registered for dry cell batteries in international class 009. Below is a photograph of Gillette's "copper and black" battery design as used in commerce from Filmart.com:

ISSUE:

Whether the Auto Emergency kit may be classified as goods put up in sets for retail sale.

Whether the battery contained in the instant Auto Emergency Kit bears a mark that is counterfeit of Gillette's "copper and black" design trademark registered with the P.T.O. (reg. no. 1,144,787) and recorded with Customs (TMK 02-00064)?

LAW AND ANALYSIS:

I. Classification

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that articles are to be classified by the terms of the headings and relative Section and Chapter Notes. For an article to be classified in a particular heading, the heading must describe the article, and not be excluded therefrom by any legal note. In the event that goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

There is a variety of merchandise at issue, classifiable in numerous headings. GRI 3 must be considered in the classification of merchandise put up in sets for retail sale. GRI 3(b) provides that:

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.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. Customs believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN (X) to GRI 3(b) sets forth the following criteria for classification as goods put up in sets for retail sale. The merchandise must: (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings. Therefore, for example, six fondue forks cannot be regarded as a set within the meaning of this Rule; (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).

The subject kit "consist[s] of at least two different articles which are, *prima facie*, classifiable in different headings," and the kit is "put up in a manner suitable for sale directly to users without repacking." However, the kit does not "consist of products or articles put up together to meet a particular need or carry out a specific activity."

Customs has consistently maintained that a roadside emergency is not a particular need or specific activity. *See* HQ 083828, dated June 9, 1989; HQ 950678, dated December 30, 1991; HQ 950332, dated December 30, 1991; HQ 951092, dated February 11, 1992; HQ 951943, dated June 26, 1992. The exemplar sets in EN(X) fall within the meaning of GRI 3(b) because the items within the sets are related to one another in such a fashion that they interact together to serve a distinct purpose or function to enable a singular result to be achieved. For example, in EN(X)(2) hairdressing sets consisting of a pair of electric hair clippers, a pair of scissors, a brush and a towel, put up in a leather case, are sets within the meaning of 3(b) because all of the items are used in concert to achieve groomed hair.

The goods at issue do not interact together to meet a particular need or carry out a specific activity. Rather, the items remedy a variety of automobile and other roadside emergencies, such as taping a broken hose or holding an overloaded trunk closed with the bungee cord. Only a few of the items may be used in concert. A dead battery would require the use of no more than the flashlight and batteries (if needed for visibility), the safety vest, or poncho (if it is raining) and the booster cables. The bandages can be used for various things (a cut, a blister), but would not be used while siphoning gas. There are various needs fulfilled by this kit, but no one particular need. Therefore, the kit is not classifiable as goods put up in a set for retail sale. Accordingly, each item must be classified individually.

II. IPR Infringement

Customs makes a distinction between trademarks that are registered with the U.S. Patent and Trademark Office and recorded with Customs, and those that are registered but not recorded. *See* generally *Montres Rolex, S.A. v. Snyder*, 718 F.2d 524, 220 U.S.P.Q. 10 (2d Cir. 1983), cert. denied, 465 U.S. 1100 (1984), and *Ross Cosmetics Distribution Centers v. United States*, 18 CIT 979 (1994), for a discussion of the statutory schemes. In regard to recordation with Customs, *see also* section 42 of the Act of July 5, 1946 (the “Lanham Act,” codified at 15 U.S.C. §§ 1051–1127), 15 U.S.C. § 1124.

Section 1526(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1526(e)), provides that merchandise bearing a counterfeit mark that is imported into the U.S., in violation of 15 U.S.C. 1124, shall be seized for violation of the customs laws. The term “counterfeit” is defined as “a spurious mark that is identical with, or substantially indistinguishable from, a registered mark.” 15 U.S.C. §1127. *See also* 19 CFR 133.21.

In pertinent part, 15 U.S.C. 1124 provides that:

[N]o article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer, or trader, or of any manufacturer or trader located in any foreign country ..., or which shall copy or simulate a trademark registered in accordance with the provisions of this chapter ... shall be admitted to entry at any customshouse of the United States ...

The trademark at issue (P.T.O. reg. no. 1,144,787; Customs TMK 02–00064) is for the design of color metallic brown, embodying a copper tint on the top portion of a cylindrical battery. The mark is the design only. The “TITEN” battery contained in the instant Auto Emergency Kit has a copper brown colored top. The name “TITEN” and Gillette’s name “Duracell” are not

at issue. The sole basis of the trademark is the design, and as such, that is the only factor to be considered in this case. We note that the copper color on the “TITEN” battery is almost the same exact shade as the “metallic brown, embodying a copper tint” as used in commerce by Gillette. The “TITEN” batteries use of copper and black is substantially indistinguishable from Gillette’s “copper top and black” design trademark that is the subject of registration number 1,144,787 and recorded with Customs (TMK 02–00064). Therefore, the “TITEN” battery bears a mark that is counterfeit of Gillette’s “copper top and black” design trademark, as defined in 19 CFR 133.21.

We note, that our search of the U.S. Patent and Trademark Office’s website, www.uspto.gov, for the “TITEN,” trademark was unsuccessful. The mark does not appear to be registered in the United States.

HOLDING:

CLASSIFICATION:

The articles contained within the Auto Emergency kit are classified as follows:

The siphon pump is classifiable in subheading 3917.33.00, HTSUS, which provides for “Tubes, pipes and hoses and fittings therefor (for example, joints, elbows, flanges), of plastics: other tubes, pipes and hoses: other, not reinforced or otherwise combined with other materials, with fittings.”

The polyethylene poncho and polyethylene safety vest are classifiable in subheading 3926.20.90, HTSUS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Articles of apparel and clothing accessories (including gloves): other: other.”

The tea light candles are classifiable in subheading 3406.00.00, HTSUS, which provides for “Candles, tapers and the like.”

The matches are classifiable in subheading 3605.00.00, HTSUS, which provides for “Matches, other than pyrotechnic articles of heading 3604.”

The flashlight is classifiable in subheading 8513.10.20, HTSUS, which provides for “Portable electric lamps designed to function by their own source of energy (for example, dry batteries, storage batteries, magnetos), other than lighting equipment of heading 8512; parts thereof: lamps: flashlights.” The batteries would be classifiable in subheading 8506.80.00, HTSUS, which provides for “Primary cells and primary batteries; parts thereof: other.”

The emergency blanket is classifiable in subheading 3920.20.00, which provides for “Other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials: of polymers of propylene.”

The bungee cord and tow rope are classifiable in subheading 5609.00.40, HTSUS, which provides for “Articles of yarn, strip or the like of heading 5404 or 5405, twine, cordage, rope or cables, not elsewhere specified or included: other.”

The battery booster cable is classifiable in subheading 8544.41.80, HTSUS, which provides for “Insulated (including enameled or anodized) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fiber cables, made up of individually sheathed fibers, whether or not assembled with electric conductors or fitted with connectors: other electric conductors, for a voltage not exceeding 80 V: fitted with connectors: other.”

The retractable utility knife with blade is classifiable in subheading 8211.93.00, HTSUS, which provides for, “Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades and other base metal parts thereof: other: knives having other than fixed blades.”

The roll of radiator repair tape is classifiable in subheading 3919.10.20, HTSUS, which provides for “Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls: In rolls of a width not exceeding 20 cm: other.”

The self-adhesive bandages are classifiable in subheading 3005.10.50, HTSUS, which provides for “Wadding, gauze, bandages, and similar articles (for example dressings, adhesive plasters, poultices) impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale for medical surgical or veterinary purposes: adhesive dressings and other articles having an adhesive layer: other.”

The paper towellettes are classifiable in subheading 4803.00.40, HTSUS, which provides for “Toilet or facial tissue stick, towel or napkin stock and similar paper of a kind used for household or sanitary purposes, cellulose wadding and webs of cellulose fibers, whether or not creped, crinkled embossed, perforated, surface-colored, surface decorated or printed, in rolls or sheets: other.”

The work gloves are classifiable in subheading 4203.29.15, HTSUS, which provides for “Articles of apparel and clothing accessories, of leather or of composition leather: other: gloves of horsehide or cowhide (except calfskin) leather: other: with fourchettes or sidewalls which, at a minimum, extend from fingertip to fingertip between each of the four fingers.”

The soft-sided case that houses the kit is classifiable in subheading 4202.92.90, HTSUS, which provides for “Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: other: other.”

HOLDING:

INTELLECTUAL PROPERTY RIGHTS:

The “TITEN” battery in the instant Auto Emergency Kit bears a mark that is counterfeit (substantially indistinguishable) of the registered (1,144,787) and recorded (TMK 02-00064) mark owned by Gillette for its “copper top and black” design.

Sincerely,

JOHN DURANT,

Director

Commercial Rulings Division

[ATTACHMENT D]

HQ 950678

December 30, 1991

CLA-2 CO:R:C:M 950678 DWS

CATEGORY: Classification

TARIFF NO.: Unknown

MR. TOM JOHNSON
INTERTRANS CORPORATION
357-103 FLAUGHERTY RUN ROAD
BUILDING B
CORAOPOLIS, PA 15108

RE: "Emergency Road Pack"; GRI 3(b); EN 3(b)(X); HQ 950332

DEAR MR. JOHNSON:

This is in response to your letter of August 30, 1991, on behalf of Three Rivers Trading Company, concerning the classification of the "Emergency Road Pack" under the Harmonized Tariff Schedule of the United States (HTSUS).

FACTS:

The subject "Emergency Road Pack" consists of a red plastic cloth, a jumper cable (150 amps), a first aid kit containing cotton swabs and balls, band-aids, bandages, a premoist towelette, a plastic poncho, a safety-light stick, a flash-light that plugs into a vehicle's cigarette lighter, a vinyl carrying case, and a plastic sign, with suction cups, that reads "Call Police". All of the above noted articles can be placed in the vinyl carrying case. The case is designed for storage in the trunk of an automobile.

ISSUE:

Is the "Emergency Road Pack" a "set", classifiable as an auto accessory under heading 8708, HTSUS, or are the articles contained within the pack to be classified under their respective headings?

LAW AND ANALYSIS:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRI's), taken in order. GRI 1 provides that classification is determined according to the terms of the headings and any relative section or chapter notes.

GRI 3 must be considered in the classification of merchandise put up in sets for retail sale. GRI 3(b) provides that:

[m]ixtures, 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.

In understanding the language of GRI 3(b), the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes, although not dispositive, are to be used to determine the proper interpretation of the HTSUS.

Explanatory Note 3(b)(X) (p. 4), HTSUS, provides that “[f]or the purpose of this Rule, the term ‘goods put up in sets for retail sale’ shall be taken to mean goods which:

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

The “Emergency Road Pack” does not meet the criteria for treatment as a set under GRI 3 analysis. The articles in the pack “consist of at least two different articles which are, prima facie, classifiable in different headings” and the pack is “put up in a manner suitable for sale directly to users without repacking.” However, the pack does not “consist of products or articles put up together to meet a particular need or carry out a specific activity.” The “Emergency Road Pack” contains several articles that do not meet a particular need or carry out a specific activity. Also, many of these articles can be used outside of an automobile, such the plastic cloth, the plastic poncho, and the first aid kit.

The “Emergency Road Pack” does not meet the criteria for treatment as a set under GRI 3 analysis. Under GRI 1, all of the articles contained within the pack must be classified separately under their respective headings in the HTSUS.

HOLDING:

The articles contained within the “Emergency Road Pack” should be classified individually. The classification of any of these articles on an individual basis does not seem to present any unusual difficulties. However, if you are unsure of the classification of a particular article, you should use the District Rulings procedure as usual.

Sincerely,
JOHN DURANT,
Director
Commercial Rulings Division

[ATTACHMENT E]

HQ 951092
February 11, 1992
CLA-2 CO:R:C:M 951092 DWS
CATEGORY: Classification
TARIFF NO.: Various

Ms. MONA WEBSTER
IMPORT CUSTOMS SPECIALIST
TARGET STORES
33 SOUTH SIXTH STREET
P.O. BOX 1392

Minneapolis, MN 55440-1392

RE: Deluxe Emergency Kit; GRI 3(b); EN 3(b)(X); HQ 950678

DEAR Ms. WEBSTER:

This is in response to your letter of December 9, 1991, concerning the classification of the "Deluxe Emergency Kit" (style #DEK-62) under the Harmonized Tariff Schedule of the United States (HTSUS).

FACTS:

Contained within a plastic molded case, the "Deluxe Emergency Kit" consists of a set of booster cables, a light, a tire inflator, two bunge cords, a plastic water bag, ten bandaids, a siphon pump, a roll of electrical tape, and a pair of polyester-rayon work gloves. The kit is designed for use with a motor vehicle and is meant to be stored in the trunk.

ISSUE:

Is the "Deluxe Emergency Pack" a set, or are the articles contained within the kit to be classified under their respective headings?

LAW AND ANALYSIS:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRI's), taken in order. GRI 1 provides that classification is determined according to the terms of the headings and any relative section or chapter notes.

GRI 3 must be considered in the classification of merchandise put up in sets for retail sale. GRI 3(b) provides that:

[m]ixtures, 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.

In understanding the language of GRI 3(b), the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes, although not dispositive, are to be used to determine the proper interpretation of the HTSUS.

Explanatory Note 3(b)(X) (p. 4), HTSUS, provides that "[f]or the purpose of this Rule, the term 'goods put up in sets for retail sale' shall be taken to mean goods which:

- (a) consist of at least two different articles which are, prima facie, classifiable in different headings . . . ;

- (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and
- (c) are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards)."

The "Deluxe Emergency Kit" does not meet the criteria for treatment as a set under GRI 3 analysis. The articles in the kit "consist of at least two different articles which are, prima facie, classifiable in different headings" and the kit is "put up in a manner suitable for sale directly to users without repacking." However, the kit does not "consist of products or articles put up together to meet a particular need or carry out a specific activity." The "Deluxe Emergency Kit" contains several articles that do not meet a particular need or carry out a specific activity. Also, some of these articles can be used outside of an automobile, such as the work gloves, the bandaids, and the water bag. See HQ 950678, dated December 30, 1991.

The "Deluxe Emergency Kit" does not meet the criteria for treatment as a set under GRI 3 analysis. Under GRI 1, all of the articles contained within the pack must be classified separately under their respective headings in the HTSUS.

HOLDING:

The articles contained within the "Deluxe Emergency Kit" should be classified individually. The classification of any of these articles on an individual basis does not seem to present any unusual difficulties. However, if you are unsure of the classification of a particular article, you should use the District Rulings procedure as usual.

Sincerely,

JOHN DURANT,

Director

Commercial Rulings Division

[ATTACHMENT F]

HQ 951943

June 26, 1992

CLA-2 CO:R:C:M 951943 DWS

CATEGORY: Classification

TARIFF NO.: Unknown

DISTRICT DIRECTOR
U.S. CUSTOMS SERVICE
P.O. BOX 619050
1205 ROYAL LANE
DALLAS, TX 75261

RE: IA 28/92; "Highway Emergency Kit"; Revocation of NY 825024; GRI 3(b); EN 3(b)(X); HQ 951092; HQ 950678

DEAR SIR:

This is in response to your memorandum of April 14, 1992, requesting internal advice concerning the tariff classification of the "Highway Emergency Kit" under the Harmonized Tariff Schedule of the United States (HTSUS).

FACTS:

Contained within a plastic molded case, the "Highway Emergency Kit" consists of an inspection lamp, booster cables, two screwdrivers, three open end wrenches, a gasoline siphon, an electrical tester, a pair of pliers, a tire pressure gauge, a pair of gloves, nine socket wrenches with one spinner, a roll of electrical tape, an antifreeze tester, and an auto fuse kit. The kit is designed for use with a motor vehicle and is meant to be stored in the trunk.

ISSUE:

Is the "Highway Emergency Kit" a set, or are the articles contained within the kit to be classified under their respective headings?

LAW AND ANALYSIS:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRI's), taken in order. GRI 1 provides that classification is determined according to the terms of the headings and any relative section or chapter notes.

GRI 3 must be considered in the classification of merchandise put up in sets for retail sale. GRI 3(b) provides that:

[m]ixtures, 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.

In understanding the language of GRI 3(b), the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes, although not dispositive, are to be used to determine the proper interpretation of the HTSUS. Explanatory Note 3(b)(X) (p. 4), HTSUS, provides that "[f]or the purpose of this Rule, the term 'goods put up in sets for retail sale' shall be taken to mean goods which:

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

The "Highway Emergency Kit" does not meet the criteria for treatment as a set under GRI 3 analysis. The articles in the kit "consist of at least two different articles which are, prima facie, classifiable in different headings" and the kit is "put up in a manner suitable for sale directly to users without repacking." However, the kit does not "consist of products or articles put up together to meet a particular need or carry out a specific activity." The "Highway Emergency Kit" contains several articles that do not meet a particular need or carry out a specific activity. Many of the items have uses outside of an emergency situation. Also, some of these articles can be used outside of an automobile, such as the work gloves, the open end wrenches, the nine socket wrenches with spinner, and the roll of electrical tape. See HQ 950678, dated December 30, 1991, and HQ 951092, dated February 11, 1992.

The "Highway Emergency Kit" does not meet the criteria for treatment as a set under GRI 3 analysis. Under GRI 1, all of the articles contained within the pack must be classified separately under their respective headings in the HTSUS.

HOLDING:

The articles contained within the "Highway Emergency Kit" should be classified individually. The classification of any of these articles on an individual basis does not seem to present any unusual difficulties. You should advise the internal advice applicant of this decision.

EFFECT ON OTHER RULINGS:

In NY 872024, dated March 25, 1988, a similar highway kit was held to be classifiable as a set under the HTSUS. Based upon the above reasoning, it is our position that NY 872024 is incorrect and is therefore revoked.

Sincerely,

JOHN DURANT,

Director

Commercial Rulings Division

[ATTACHMENT G]

NY D87008

February 3, 1999

CLA-2-82:RR:NC:115 D87008

CATEGORY: Classification

TARIFF NO.: 8203.20.4000, 8205.40.0000,
8204.20.0000

MR. JUAN DOMINGUEZ
WAL*MART STORES, INC.
702 SOUTHWEST 8 STREET
BENTONVILLE, AR 72716-8023

RE: The tariff classification of automotive repair kits from Taiwan and China.

DEAR MR. DOMINGUEZ:

In your letter dated January 15, 1999 you requested a tariff classification ruling.

Two sample kits were submitted, which will be returned as per your request. The first kit called Roadside Emergency Kit (item SDR 594) consists of the following: Emergency Aluminum Foil Blanket, Accident Information Guide Booklet, Band Aids, Antiseptic Ointment, Alcohol Prep Pads, Wet Wipes, Electrical Tape, Sockets, Ratchet Adaptor, Screwdrivers, Slip Joint Plier, Adjustable Wrench, Blade Fuses, Paper Help Flag, Nylon Cable Ties, Spinner Handle, Battery Booster Cables, Tire Sealant, Light Sticks, Radiator Hose Repair Tape, Hose Clamps, Red Shop Towel, Bungee Cord, Flashlight, Gas Siphon Pump, Radiator Water Bag and all packed in a fitted blown molded case.

The second kit called Automotive Repair Kit (item SDR 595) consists of the following: Sockets, Blade Fuses, Cable Ties, Assorted Terminals, Hex Bits Adaptor w/Holder, Radiator Tester, Thickness Gauge, Slip Joint Plier, PVC Tape, Rubber Mallet, Ratchet Handle, Adaptor, Tyre Gauge, Steel Battery Terminal Shovel, Auto Circuit Tester, Crimping Tool, Plastic Knife w/snap off blade, plier, wrenches, screwdrivers all packed in a fitted blown molded case.

Each molded case is inserted into a cardboard sleeve that lists all the contents and shows what the item looks like.

All classifications will be the applicable subheadings of the Harmonized Tariff Schedules of the United States (HTS).

The classifications for the Roadside Emergency kit are as follows:

Emergency Aluminum Foil Blanket, 3920.20.0000, which provides for Other plates, sheets, film, foil and strip, of plastics, non celluar and not reinforced, laminated, supported or similarly combined with other materials: Of polymers of propylene. The rate of duty will be 4.2% ad valorem. If made of polyethyl terephthalate, 3920.62.0000, which provides for: Of polycarbonates, alkyd resins, polyallyl esters or other polyesters: Of polyethylene terephthalate. The rate of duty will be 4.2% ad valorem.

Accident Information Guide, 4901.10.0040, which provides for Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets: Other. The rate of duty will be free.

The Band Aids, Antiseptic Ointment, Alcohol Prep Pads and Wet Wipes show the country of origin to be USA, 9801.00.1096, which provides for Products of the United States when returned after having been exported, without having been advanced in value or improved in condition by any

process of manufacture or other means while abroad. The rate of duty will be free. If of foreign origin the Band Aids, 3005.10.50.00, Antiseptic Ointment, 3004.20.0060, Alcohol Prep Pads, 3005.90.1000. The rate of duty will be free.

Wet Wipes, 3402.20.1000. The rate of duty will be 4% ad valorem.

Electric Tape, 3910.20.2000, which provides for Electrical Tape. The rate of duty will be 5.8% ad valorem.

Screwdrivers (c/o China), 8205.40.0000, which provide for screwdrivers, and parts thereof. The rate of duty will be 6.2% ad valorem.

Sockets, Ratchet Adaptor, Spinner, 8204.20.00, which provides for Socket wrenches, with or without handles, drives and extensions, and parts thereof. The rate of duty will be 9% ad valorem.

Slip Joint Plier, 8203.20.4000, which provides for Slip Joint pliers. The rate of duty will be 12% ad valorem.

Adjustable Wrench (c/o China), 8204.12.00, which provides for Wrenches... Adjustable, and parts thereof. The rate of duty will be 9% ad valorem.

Blade Fuses, 8536.10.0040, which provides for Electrical apparatus for switching or protecting electrical circuits, or making connections to or in electrical circuits (for example, switches relays, fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 V: Fuses..Other. The rate of duty will be 2.7% ad valorem.

Help Flag, 4911.99.8000, which provides for Other printed matter, including printed pictures and photographs: Other: Other: Other. The rate of duty will be 2.4% ad valorem.

Nylon Cable Ties (c/o China), 3926.90.9880, which provides for Other articles of plastics: Other: Other: Other: The rate of duty will be 5.3% ad valorem.

Battery Booster Cables (c/o China), 8544.41.8000, which provides for Other electric conductors, for a voltage not exceeding 80 V: Fitted with connectors: Other. The rate of duty will be 2.6% ad valorem.

Tire Inflator, 9801.00.1096, which provides for Products of the United States when returned after having been exported, without having been advanced in value or improved in condition. The rate of duty will be free. If of foreign origin, 3824.90.9050. The rate of duty will be 5% ad valorem.

Light Sticks, 3824.90.2800, which provides Chemical products and preparations, not elsewhere specified or included. Other: Other: Other. The rate of duty will be 1.8 cents /kg + 10% ad valorem.

Radiator Hose Repair Tape, 3919.10.2055, which provides for Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls: Other: Other. The rate of duty will be 5.8% ad valorem.

Hose Clamps, 7326.90.8585, which provides Other articles of iron or steel...Other: Other: Other. The rate of duty will be 2.9% ad valorem.

Red Shop Towels (c/o India), 6307.10.2055, which provide for other made up articles: Shop towels dedicated for use in garages, filling stations and machine shops: of cotton. Textile category 369 and the rate of duty will be 7.9% ad valorem.

Bungee Cord, 5609.00.3000 (c/o Indonesia), which provides for Articles of yarn, twine, cordage, rope or cables, not elsewhere specified or included. Of man made fibers. The rate of duty will be free.

Flashlight, 8513.10.20.0000, which provides for Flashlights. The rate of duty will be 12.5% ad valorem.

Gas Siphon Pump, 8413.20.0000, which provides for Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; hand pumps. The rate of duty will be free.

Radiator Water Bag, 3926.90.9880, which provides for Other articles of plastics and articles of headings 3901 to 3914...Other: Other: Other. The rate of duty will be 5.3% ad valorem.

The fitted blown molded case will be classified under the General Rules of Interpretation number 5. The case will be classified with such articles normally sold therewith.

Please note many classifications will be repeated in the Automotive Repair Kit. Where it is the same item as listed in the previous Kit, only the Tariff number and rate of duty will be shown.

Automotive Repair Kit as follows:

Sockets, spark plug socket, ratchet handle, adaptor, hex key set, 8204.20.0000. The rate of duty will be 9% ad valorem.

Tyre Gauge, 9026.20.8000, which provides for Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases: Other. The rate of duty will be free.

Auto Circuit Tester, 9030.39.0080, which provides for Other instruments and apparatus, for measuring or checking voltage, current, resistance or power, without a recording device: Other: Other. The rate of duty will be 1.7% ad valorem.

Open-end wrenches, 8204.11.0030, which provides for open-end, box and combination. The rate of duty will be 9% ad valorem.

Slip joint plier. 8203.20.4000. The rate of duty will be 12% ad valorem.

Long nose plier, 8203.20.6030. The rate of duty will be 12 cents/doz. + 5.5% ad valorem. Screwdrivers, 8205.40.0000. The rate of duty will be 6.2% ad valorem.

Cable ties, 3926.90.9880. The rate of duty will be 5.3% ad valorem.

Blade Fuses, 8536.10.0040. The rate of duty will be 2.7% ad valorem.

Assorted Terminals, 8536.90.4000, which provides for Terminals, electrical splices and electrical couplings; wafer probers. The rate of duty will be .9% ad valorem.

Radiator Tester, 9025.80.3500, which provides for Hygrometers and psychrometers, non-recording. The rate of duty will be 1.4% ad valorem.

Thickness Gauge, 9031.80.8060, which provides for Equipment for testing the characteristics of internal combustion engines: For testing electrical characteristics. The rate of duty will be 1.7% ad valorem.

Electric Tape, 3919.10.2020. The rate of duty will be 5.8% ad valorem.

Rubber Mallet, 4016.99.6050, which provides for Other articles of vulcanized rubber other than hard rubber: Other: Other: Other. The rate of duty will be 2.5% ad valorem.

Crimping Tool, 8205.598000,. Which provides for Hand tools: Other: Other: Other: The rate of duty will be 3.7% ad valorem.

Plastic knife w/snap off blade, 8205.59.5560. The rate of duty will be 5.3% ad valorem.

The fitted blown molded plastic case is subject to GRI 5.

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 Melvyn Birnbaum at 212-637-7017.

Sincerely,

ROBERT B. SWIERUPSKI,

Director

National Commodity Specialist Division

[ATTACHMENT H]

NY E80250

April 19, 1999

CLA-2-82:RR:NC:115 E80250

CATEGORY: Classification

TARIFF NO.: 8204.20.0000, 9603.40.4060,
8466.108075, 5609.00.3000

MR. JUAN DOMINGUEZ
WAL*MART STORES, INC.
702 SOUTHWEST 8 STREET
BENTONVILLE, AR 72716-8023

RE: The tariff classification of items found in automotive repair kits from Taiwan.

DEAR MR. DOMINGUEZ:

In your letter dated January 15, 1999 you requested a tariff classification ruling.

Two automotive repair kits were submitted for classification purposes in your letter dated January 15, 1999. (Item SD 594 and item SD 595). NY ruling D87008 dated February 3, 1999 addressed the classification request. However, certain items were not addressed in the NY ruling. This binding ruling classifies the additional items that are part of sets (SD 594 and SD 595).

The applicable subheading for the Bunge Cord will be 5609.00.3000, Harmonized Tariff Schedule of the United States (HTS), which provides for Articles of yarn, twine, cordage, rope or cables, not elsewhere specified or included. Of man made fibers. The rate of duty will be 6.8% valorem.

The applicable subheading for the Brush for Terminal Batteries will be 9603.40.4060, Harmonized Tariff Schedule of the United States (HTS), which provides for Brushes: Other...other. The rate of duty will be 4% ad valorem.

The applicable subheading for Hex Bits Adaptor w/holder will be 8204.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for Socket wrenches, with or without handles, drives and extensions, and parts thereof. The rate of duty will be 9% ad valorem. If there are screwdriver bits and hex bits that are used with the Adaptor w/holder the applicable subheading will be 8466.10.8075, Harmonized Tariff Schedule of the United States (HTS), which provides for Tool holders: Other...other. The rate of duty will be 3.9% ad valorem.

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 Melvyn Birnbaum at 212-637-7017.

Sincerely,

ROBERT B. SWIERUPSKI,
Director

National Commodity Specialist Division

[ATTACHMENT I]

NY E81728

May 17, 1999

CLA-2-82:RR:NC:115 E81728

CATEGORY: Classification

TARIFF NO.: 8544.41.8000, 9013.80.9000,
8203.20.4000, 3006.50.0000, 8513.10.4000,
8205.40.0000, 8204.20.0000, 8414.80.1590,
4901.10.0040

Ms. JANE JOHNSON
INTERNATIONAL SCARBROUGH
10841 AMBASSADOR DRIVE
KANSAS CITY, MO 64153

RE: The tariff classification of Roadside Assistance Kit from Taiwan, China and USA.

DEAR Ms. JOHNSON:

In your letter dated April 21, 1999 you requested a tariff classification ruling on behalf of your client Discovery Concepts, Inc.

The kit consists of the following items:

Booster Cables-1- Gauge 10' Length Reflective Triangles Slip joint Pliers 8" First Aid Kit:

iodine pads 4 pieces sheer bandages 4 pieces alcohol pad 4 pieces ouchless adhesive pad 2 pieces scissors gauze surgical tape rubber gloves pvc bag 5 in 1 Lantern Amber Blinking, Red Blinking, Red/Amber Blinking, Torch Soft Light, and 12v Cigarette Lighter Adapter 2 screwdrivers 12" Breaker Bar, with 4 Sockets Air Compressor Instruction Booklet Hard Plastic Case

The applicable subheading for the Booster Cables will be 8544.41.8000, Harmonized Tariff Schedule of the United States (HTS), which provides for Other electric conductors, for a voltage not exceeding 80 V: Other. The rate of duty will be 2.6% ad valorem. The applicable subheading for the Reflective Triangles will be 9013.80.9000, Harmonized Tariff Schedule of the United States (HTS), which provides for Other devices, appliances and instruments: Other. The rate of duty will be 4.5% ad valorem.

The applicable subheading for the Slip joint Pliers will be 8203.20.4000, Harmonized Tariff Schedule of the United States (HTS), which provides for Slip Joint Pliers. The rate of duty will be 12% ad valorem.

The applicable subheading for the First Aid Kit will be 3006.50.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for First-Aid boxes and kits. The rate of duty will be free.

The applicable subheading for the 5 in 1 Lantern will be 8513.10.4000, Harmonized Tariff Schedule of the United States (HTS), which provides for Portable electric lamps designed to function by their own source of energy: Other. The rate of duty will be 3.5% ad valorem.

The applicable subheading for the screwdrivers will be 8205.40.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for Screwdrivers. The rate of duty will be 6.2% ad valorem.

The applicable subheading for the Breaker Bar with Sockets will be 8204.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for Socket Wrenches, with or without handles, drives and extensions, and parts thereof. The rate of duty will be 9% ad valorem.

The applicable subheading for the Air Compressor will be 8414.80.1590, Harmonized Tariff Schedule of the United States (HTS), which provides for Air compressors: Other. The rate of duty will be free.

The applicable subheading for the Instructional Booklet will be 4901.10.0040, Harmonized Tariff Schedule of the United States (HTS), which provides for Printed books, brochures, leaflets and similar printed matter. Other. The rate of duty will be free.

The hard Plastic Case will be classified under the General Rules of Interpretation principle number 5.

In your inquiry you ask how the items and case be marked due to the different countries of origin. Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. §1304) provides in general that any article of foreign origin (or its container) imported into the United States must be marked conspicuously, indelibly, legibly and as permanently as the nature of the article will permit in such manner as to indicate the country of origin to the ultimate purchaser in the United States.

Acceptable methods of marking for the kit can be as follows: The plastic case be inserted into a cardboard sleeve listing all the contents and their country of origin. Another method may be a cardboard wrapper (the size of a wide band) also listing the contents and country of origin. The above methods would be acceptable if the wrapper is permanently affixed to the plastic case so that it reaches the ultimate purchaser in that condition.

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 Melvyn Birnbaum at 212-637-7017.

Sincerely,

ROBERT B. SWIERUPSKI,

Director

National Commodity Specialist Division

[ATTACHMENT J]

NY I81218
May 17, 2002
CLA-2-82:RR:NC:1:118 I81218
CATEGORY: Classification
TARIFF NO.: 8544.41.8000; 6116.92.8800;
3923.21.0090; 3223.29.0000; 8413.20.0000;
4911.99.8000; 8204.11.0030; 9031.80.8085;
3919.10.2020; 8531.80.0050; 8205.40.0000;
9030.39.0080; 8204.20.0000; 9026.20.8000;
8536.10.0040; 8203.20.6030; 8536.90.4000;
3006.50.0000; 8205.59.5560; 3506.10.5000;
8211.93.0060; 3923.50.0000; 4016.99.1500;
3926.90.9880; 7326.90.8586

MR. PILAR DORFMAN
E. BESLER & COMPANY
115 MARTIN LANE E
ELK GROVE VILLAGE, IL 60007-1309

RE: The tariff classification of a 151pc. Highway Emergency Kit from China.

DEAR MR. DORFMAN:

In your letter dated March 12, 2002, on behalf of your client LTD Commodities Inc., Bannockburn, IL, you requested a tariff classification ruling. The sample that you supplied will be returned to you as requested.

You have described your sample, item #111464-4EKT, as a 151-pc. Highway Emergency Kit. It includes the following:

? 1- pair of booster cables - 50 AMP, copper gauge: 0.18MM x 35 wires ?
Gloves – cotton string knit ? 6-qt emergency water bag ? Gasoline siphon pump ? “HELP flag” – made of plastics ? 3 open-end wrenches ? 6 spark plug gauges ? Electrical tape ? Magnetic super light ? 2 stubby screwdrivers – 1 flat, 1 Phillips ? Auto tester (6–12 volt) ? Spinner handle (1/4” driver) ? Tire pressure gauge ? 8-pc. Auto fuse kit ? 9 sockets (3/16” to 1/2”) ? Crimping tool ? 80 assorted terminals (1/2” to 3/4”) ? 4 moistened towelettes ? 18-pc. first aid kit (iodine swabs, cotton swabs, gauze, bandages) ? 9-pc. tire repair kit (T-shaped tire awl - made of steel with a plastic handle, rubber adhesive in a metal collapsible tube, razor knife, 4 black plugs, metal inflater plug) ? Carrying case – tire shaped, fitted and made of plastic (14” x 13” x 3”)

The compact carrying case fits easily under the spare tire of a vehicle. This item along with its contents does not interact together to meet a particular need or carry out a specific activity. Rather the items remedy a variety of automobile and other roadside emergencies and only a few items may be used in concert. Accordingly, each item must be classified individually.

The applicable subheading for the booster cables will be 8544.41.8000, Harmonized Tariff Schedule of the United States (HTS), which provides for other electric conductors, for a voltage not exceeding 80 V: fitted with connectors: other. The rate of duty will be 2.6% ad valorem.

The applicable subheading for the cotton string knit gloves, will be 6116.92.8800, HTS, which provides for gloves, mittens and mitts, knitted or crocheted: other: of cotton: other: without fourchettes. The duty rate will be 9.5% ad valorem.

The applicable subheading for the 6-qt. emergency water bag (if of polyethylene) will be 3923.21.0090, HTS, which provides for articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics: sacks and bags (including cones): of polymers of ethylene: other: other. The rate of duty will be 3% ad valorem.

The applicable subheading for the 6-qt. emergency water bag (if plastic other than polyethylene) will be 3923.29.0000, HTS, which provides for articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics: sacks and bags (including cones): of other plastics. The rate of duty will be 3% ad valorem.

The applicable subheading for the siphon pump will be 8413.20.0000, HTS, which provides for pumps for liquids, whether or not fitted with a measuring device; liquid elevators; part thereof: hand pumps, other than those of subheading 8413.11 or 8413.19. The rate of duty will be free.

The applicable subheading for the "HELP" flag will be 4911.99.8000, HTS, which provides for other printed matter, including printed pictures and photographs: other: other: other: other. The rate of duty will be 1% ad valorem.

The applicable subheading for the open-end wrenches will be 8204.11.0030, HTS, which provides for hand-operated spanners and wrenches (including torque meter wrenches but not including tap wrenches); socket wrenches, with or without handles, drives and extensions; base metal parts thereof: hand-operated spanners and wrenches, and parts thereof: nonadjustable, and parts thereof: open-end, box and combination open-end and box wrenches. The rate of duty will be 9% ad valorem.

The applicable subheading for the spark plug gauges will be 9031.80.8085, HTS, which provides for measuring or checking instruments, appliances and machines, not specified or elsewhere included (in Chapter 90): other. The rate of duty will be 1.7% ad valorem.

The applicable subheading for the electrical tape will be 3919.10.2020, HTS, which provides for self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls: in rolls of a width not exceeding 20 cm: other: electrical tape. The rate of duty will be 5.8% ad valorem.

The applicable subheading for the magnetic super light will be 8531.80.0050, HTS, which provides for electrical sound or visual signaling apparatus (for example, bells, sirens, indicator panels, burglar or fire alarms), other than those of heading 8512 or 8530; parts thereof: other apparatus: other. The rate of duty will be 1.3% ad valorem.

The applicable subheading for the screwdrivers will be 8205.40.0000, HTS, which provides for 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: screwdrivers, and parts thereof. The rate of duty will be 6.2% ad valorem.

The applicable subheading for the auto tester will be 9030.39.0080, HTS, which provides for other instruments and apparatus, for measuring or checking voltage, current, resistance or power, without a recording device: other: other. The rate of duty will be 1.7% ad valorem.

The applicable subheading for the sockets with spinner handle will be 8204.20.0000, HTS, which provides for hand-operated spanners and

wrenches (including torque meter wrenches but not including tap wrenches); socket wrenches, with or without handles, drives and extensions; base metal parts thereof: socket wrenches, with or without handles, drives and extensions, and parts thereof. The rate of duty will be 9% ad valorem.

The applicable subheading for the tire pressure gauge will be 9026.20.8000, HTS, which provides for instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters) excluding instruments and apparatus of heading 9014, 9015, 9028 or 9032; parts and accessories thereof: for measuring or checking pressure: other. The rate of duty will be free.

The applicable subheading for the auto fuse kit will be 8536.10.0040, HTS, which provides for electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits for a voltage not exceeding 1,000 V: fuses: other. The rate of duty will be 2.7% ad valorem.

The applicable subheading for the crimping tool will be 8203.20.6030, HTS, which provides for files, rasps, pliers (including cutting pliers), pincers, tweezers, metal cutting shears, pipe cutters, bolt cutters, perforating punches and similar handtools, and base metal parts thereof: pliers (including cutting pliers), pincers, tweezers, metal cutting shears, pipe cutters, bolt cutters, perforating punches and similar tools, and parts thereof: other: other (except parts): pliers. The rate of duty will be 12¢/doz. + 5.5% ad valorem.

The applicable subheading for the assorted terminals will be 8536.90.4000, HTS, which provides for electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits for a voltage not exceeding 1,000 V: other apparatus: terminals, electrical splices and electrical couplings; wafer probers. The rate of duty will be free.

Your inquiry does not provide enough information for us to give a classification ruling on the moistened towelettes. Your request should include the chemical composition of the towelettes as well as the chemical composition of the liquid cleaning agent on it. When this information is available, you may wish to consider resubmission of your request.

The applicable subheading for the first aid kit will be 3006.50.0000, HTS, which provides for first-aid boxes and kits. The rate of duty will be free.

The applicable subheading for the tire awl will be 8205.59.5560, HTS, which provides for 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: other handtools (including glass cutters) and parts thereof: other: other: other: of iron or steel: other (including parts). The rate of duty will be 5.3% ad valorem.

The applicable subheading for the rubber adhesive (cement) will be 3506.10.5000, HTS, which provides for prepared glues and other prepared adhesives, not elsewhere specified or included; products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kg: other. The rate of duty will be 2.1% ad valorem.

The applicable subheading for the razor knife will be 8211.93.0060, HTS, which provides for knives with cutting blades, serrated or not, other than knives of heading 8208, and blades thereof: knives having other than fixed blades: other. The duty rate will be 3 cents each + 5.4% ad valorem.

The applicable subheading for the plugs (if of plastic) will be 3923.50.0000, HTS, which provides for articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics: stoppers, lids, caps and other closures. The rate of duty will be 5.3% ad valorem.

The applicable subheading for the plugs (if of synthetic rubber) will be 4016.99.1500, HTS, which provides for other articles of vulcanized rubber other than hard rubber: other: other: caps, lids, seals, stoppers, and other closures. The rate of duty will be 2.7% ad valorem.

The applicable subheading for the blue and red threaded plastic article in the tire repair kit will be 3926.90.9880, HTS, which provides for other articles of plastics and articles of other materials of headings 3901 to 3914: other: other: other. The rate of duty will be 5.3% ad valorem.

The applicable subheading for the metal inflater plug will be 7326.90.8586, HTS, which provides for other articles of iron or steel: other: other: other: other: other. The rate of duty will be 2.9% ad valorem.

The compact plastic carrying case is considered to be a container specially shaped or fitted to contain the contents of the Highway Emergency Kit and is to be entered with the articles for which they are intended. Consequently, when this specially fitted case is entered with the items for which they are intended they meet the requirements of GRI 5(a) and should be classified with the kits.

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 Kathy Campanelli at 646-733-3021.

Sincerely,

ROBERT B. SWIERUPSKI,

Director

National Commodity Specialist Division

[ATTACHMENT K]

NY J86419

July 1, 2003

CLA-2-30:RR:NC:2:238 J86419

CATEGORY: Classification

TARIFF NO.: 4202.92.3031; 3005.10.5000;
3005.90.5090; 8213.00.9000; 3926.20.1020;
4911.99.8000; 3920.62.0000; 8513.10.2000;
8506.10.0000; 3926.20.9050; 3926.20.6000;
3406.00.0000; 3605.00.0030; 4901.99.0092

MR. RODNEY RALSTON
UPS SUPPLY CHAIN SOLUTIONS
1 TRANSBORDER DRIVE
CHAMPLAIN, NY 12919

RE: The tariff classification of Road Safety Kit (Item No. 85-2928)

DEAR MR. RALSTON:

In your letter dated June 16, 2003, on behalf of your client, Nura Canada, you requested a tariff classification ruling.

The submitted sample, designated as "Road Safety Kit (Item No. 85-2928)," consists of a red nylon carrying case (made in India), sealed in shrink wrap. A paper label, held in place on the case's exterior surface by the shrink wrap, lists the contents of the kit as follows: 10 adhesive bandages 1.9 cm x 7.5 cm, plastic (Canada); 2 fingertip bandages, fabric (Canada); 2 knuckle bandages, fabric (Canada); 10 antiseptic towelettes (Canada); 2 gauze pads 5 cm x 5 cm (India); 2 gauze pads 7.5 cm x 7.5 cm (India); 1 pair of scissors (China); 1 pair of gloves (Thailand); 1 SOS signal (India); 1 rescue sheet (China); 1 flashlight (China); 2 D batteries (Indonesia); 1 safety vest (China); 1 emergency poncho (China); 2 emergency candles (China); 1 box of waterproof matches (Philippines); and 1 first-aid pocket guide (Canada).

Pursuant to HQ 950678, dated December 30, 1991, it is our determination that the items comprising the subject kit are to be classified under their respective headings

The applicable subheading for the nylon carrying case will be 4202.92.3031, Harmonized Tariff Schedule of the United States (HTS), which provides for "Travel, sports and similar bags: With outer surface of textile materials: Other: Other: Of man-made fibers: Other(670)." The general rate of duty will be 17.8 percent ad valorem. At the present time, textile category 670 from India is not subject to visa requirements or quota restrictions.

The applicable subheading for the adhesive bandages, fingertip bandages, and knuckle bandages will be 3005.10.5000, HTS, which provides for "Wadding, gauze, bandages and similar articles ... put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes: Adhesive dressings and other articles having an adhesive layer: Other." The general rate of duty will be free.

The applicable subheading for the gauze pads will be 3005.90.5090, HTS, which provides for "Wadding, gauze, bandages and similar articles ... put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes: Other: Other: Other." The general rate of duty will be free. The applicable subheading for the pair of scissors will be 8213.00.9000, HTS, which provides for "Scissors, tailors' shears and similar shears, and blades

and other base metal parts thereof: Valued over \$1.75/dozen: Other (including parts).” The general rate of duty will be 3.7 cents each plus 3.7 percent ad valorem.

The applicable subheading for the pair of gloves will be 3926.20.1020, HTS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Articles of apparel and clothing accessories (including gloves, mittens and mitts): Gloves, mittens and mitts: Seamless: Other: Disposable.” The general rate of duty will be free.

The applicable subheading for the SOS signal will be 4911.99.8000, HTS, which provides for “Other printed matter, including printed pictures and photographs: Other: Other: Other: Other.” The general rate of duty will be 0.5 percent ad valorem.

The applicable subheading for the rescue sheet will be 3920.62.0000, HTS, which provides for “Other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials: Of polycarbonates, alkylid resins, polyallyl esters or other polyesters: Of poly(ethylene terephthalate).” The general rate of duty will be 4.2 percent ad valorem.

The applicable subheading for the flashlight will be 8513.10.2000, HTS, which provides for “Portable electric lamps designed to function by their own source of energy (for example, dry batteries, storage batteries, magnetos), other than lighting equipment of heading 8512; parts thereof: Lamps: Flashlights.” The general rate of duty will be 12.5 percent ad valorem.

The applicable subheading for the D batteries will be 8506.10.0000, HTS, which provides for “Primary cells and primary batteries; parts thereof: Manganese dioxide.” The general rate of duty will be 2.7 percent ad valorem.

The applicable subheading for the safety vest will be 3926.20.9050, HTS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Articles of apparel and clothing accessories (including gloves, mittens and mitts): Other: Other: Other.” The general rate of duty will be 5 percent ad valorem.

The applicable subheading for the emergency poncho will be 3926.20.6000, HTS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Articles of apparel and clothing accessories (including gloves, mittens and mitts): Other: Plastic rainwear, including jackets, coats, ponchos, parkas and slickers, featuring an outer shell of polyvinyl chloride plastic with or without attached hoods, valued not over \$10 per unit.” The general rate of duty will be free.

The applicable subheading for the emergency candles will be 3406.00.0000, HTS, which provides for “Candles, tapers and the like.” The general rate of duty will be free. For your information, candles from China may be subject to anti-dumping duties administered by the U.S. Department of Commerce, Import Administration. You may contact them at 14th Street and Constitution Avenue, N.W., Washington, DC 20230, telephone number (202) 482-4106.

The applicable subheading for the box of waterproof matches will be 3605.00.0030, HTS, which provides for “Matches, other than pyrotechnic articles of heading 3604: Matches with natural wood stems.” The general rate of duty will be free. For your information, the importation into the United States of white phosphorus matches is prohibited under 19 CFR §12.34. In accordance with 19 CFR §12.34(b), invoices covering matches imported into the United States shall be accompanied by a certificate of official inspection

of the Government of the country of manufacture in the following form: CERTIFICATE OF OFFICIAL INSPECTION OF MATCHES: I, (Name), do hereby certify that I am the (Official title), that according to the chemical analysis made by me the matches described below do not contain white or yellow phosphorus and that therefore they are not white phosphorus matches as defined in the Act of Congress of the United States of America approved April 9, 1912.

The applicable subheading for the first-aid pocket guide will be 4901.99.0092, HTS, which provides for "Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets: Other: Other: Other: Other: Other: Other: Containing 5 or more pages each, but not more than 48 pages each (excluding covers)." The general rate of duty will be free.

With respect to the antiseptic towelettes, please be advised that we require - in addition to benzalkonium chloride - the name of all the other ingredients comprising the liquid impregnating the towelettes. We also require the intended use(s) for the towelette. When this information is available, you may wish to resubmit your request for a ruling on this item.

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 Harvey Kuperstein at 646-733-3033.

Sincerely,

ROBERT B. SWIERUPSKI,

Director

National Commodity Specialist Division

[ATTACHMENT L]

N008721

April 9, 2007

CLA-2-30:RR:NC:2:238

CATEGORY: Classification

TARIFF NO.: 3005.10.5000; 3402.12.1000;
3004.90.9145; 8513.10.2000; 3926.90.9925;
3926.90.9980; 8205.40.0000; 8413.20.0000;
8536.10.0040; 5609.00.4000; 4911.99.8000;
3605.00.0030; 3406.00.0000

MR. STEPHEN W. MARLOW
FEDEx TRADE NETWORKS TRANSPORT & BROKERAGE, INC.
205 WEST SERVICE ROAD
CHAMPLAIN, NY 12919

RE: The tariff classification of a Large Road Hazard Kit

DEAR MR. MARLOW:

In your letter dated March 8, 2007, on behalf of your client, First Aid Central, you requested a tariff classification ruling.

The submitted sample, described as a "Large Road Hazard Kit," contains the following items: 2 knuckle adhesive dressings; 2 fingertip adhesive dressings; 2 gauze pads; 6 benzalkonium chloride antiseptic towelettes; 3 insect sting relief swabs; 1 crank flashlight; 1 reflective triangle; 1 flasher (circular reflector); 1 traffic vest; 1 lightstick; 1 multi-bit screwdriver; 1 syphon pump (siphon hose & pump); 1 automobile fuse kit; 2 bungee cords; 1 adult poncho; 1 plastic S.O.S. flag; 1 box of wind-and-waterproof matches; 1 pair of work gloves; 1 sheet foam; 2 wax candles (stated to be of Canadian origin); and 1 emergency/survival blanket (Item No. 21818). You indicate in your letter that all the items will be put up in a nylon carrying case or a plastic box - neither of which was submitted with the individual components.

Pursuant to Headquarters Ruling Letter 950678, dated December 30, 1991, it is our determination that the items comprising the subject kit are to be classified under their respective headings.

The applicable subheading for the knuckle and fingertip adhesive dressings will be 3005.10.5000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices) ... put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes: Adhesive dressings and other articles having an adhesive layer: Other." The rate of duty will be free.

The applicable subheading for the gauze pads will be 3005.90.5090, HTSUS, which provides for "Wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices) ... put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes: Other: Other." The rate of duty will be free.

The applicable subheading for the benzalkonium chloride towelettes will be 3402.12.1000, HTSUS, which provides for "Organic surface-active agents, whether or not put up for retail sale: Cationic: Aromatic or modified aromatic." The rate of duty will be 4 percent ad valorem.

The applicable subheading for the insect sting relief swabs will be 3004.90.9145, HTSUS, which provides for "Medicaments ... consisting of

mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses ... or in forms or packings for retail sale: Other: Other: Other: Dermatological agents and local anesthetics.” The rate of duty will be free.

The applicable subheading for the crank flashlight will be 8513.10.2000, HTSUS, which provides for “Lamps: Flashlights.” The rate of duty will be 12.5 percent ad valorem.

The applicable subheading for the reflective triangle will be 3926.90.9825, HTSUS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other: Reflective triangular warning signs for road use.” The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the Flasher (circular reflector) will be 3926.90.9880, HTSUS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other: Other.” The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the multi-bit screwdriver will be 8205.40.0000, HTSUS, which provides for “Screwdrivers, and parts thereof.” The rate of duty will be 6.2 percent ad valorem.

The applicable rate of duty for the syphon pump (siphon hose and pump) will be 8413.20.0000, HTSUS, which provides for “Pumps for liquids, whether or not fitted with a measuring device; liquid elevators; parts thereof: Hand pumps, other than those of subheading 8413.11 or 8413.19.” The rate of duty will be free.

The applicable subheading for the set of fuses (automobile fuse kit) will be 8536.10.0040, HTSUS, which provides for “Fuses: Other.” The rate of duty will be 2.7 percent ad valorem.

The applicable rate of duty for the bungee cords will be 5609.00.4000, HTSUS, which provides for “Articles of yarn, strip or the like of heading 5404 or 5405, twine, cordage, rope or cables, not elsewhere specified or included: Other.” The rate of duty will be 3.9 percent ad valorem.

The applicable subheading for the S.O.S. flag will be 4911.99.8000, HTSUS, which provides for “Other printed matter, including printed pictures and photographs: Other: Other: Other: Other.” The rate of duty will be free.

The applicable subheading for the wind-and-waterproof matches will be 3605.00.0030, HTSUS, which provides for “Matches, other than pyrotechnic articles of heading 3604: Matches with natural wood stems.” The rate of duty will be free.

The applicable subheading for the wax candles (stated to be of Canadian origin) will be 3406.00.0000, HTSUS, which provides for “Candles, tapers and the like.” 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/>.

With respect to the traffic vest, we require the name and percent by weight of each fiber making up the vest. When this information is available, you may wish to resubmit your request, along with a sample, to National Import Specialist Kenneth Reidlinger, at 646-733-3053.

With respect to the lightstick, we require the chemical name, CAS number, and percent by weight of each ingredient making up the lightstick before a ruling can be issued. When this information is available, you may wish to resubmit your request, along with a sample, to National Import Specialist Richard Dunkel, at 646-733-3032.

With respect to the adult poncho, we require the chemical identity of the polymer(s) that the poncho is composed of. When this information is available, you may wish to resubmit your request, along with a sample and the value per unit, to National Import Specialist Kenneth Reidlinger, at 646-733-3053.

With respect to the pair of work gloves, we require the weight of the rubber/plastic dots vs. the weight of the textile portion of the palm side only, from the fingertips to the wrist. When this information is available, you may wish to resubmit your request, along with a sample, to National Import Specialist Deborah Marinucci, at 646-733-3054.

With respect to the sheet foam, we require the fiber content and the type (i.e., staple, filament, or both staple and filament) of fibers making up the item. When this information is available, you may wish to resubmit your request, along with a sample, to National Import Specialist Deborah Walsh, at 646-733-3044.

With respect to the emergency/survival blanket (Item No. 21818), we require the chemical identity of the polymer(s) that it is composed of. When this information is available, you may wish to resubmit your request, along with a sample, to National Import Specialist Joan Mazzola, at 646-733-3023.

With respect to the nylon carrying case, a sample must be submitted before a ruling can be issued. The sample should be submitted with your ruling request to National Import Specialist Vikki Lazaro, at 646-733-3041.

With respect to the plastic box, a sample must also be submitted before a ruling can be issued. The sample should be submitted with your ruling request to National Import Specialist Joan Mazzola, at 646-733-3023.

The submitted sample is being returned as requested. 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 Harvey Kuperstein at 646-733-3033.

Sincerely,

ROBERT B. SWIERUPSKI,

Director

National Commodity Specialist Division

[ATTACHMENT M]

N080536

November 13, 2009

CLA-2-84:OT:RR:NC:N1:102

CATEGORY: Classification

TARIFF NO.: 8414.80.1585; 3506.10.5000;
4202.92.4500; 3006.50.0000; 8544.49.2000;
3926.90.9925; 4911.99.8000; 9026.20.8000

MR. JASON HACKETT
ACCESSORIES MARKETING, INC.
800 FARROLL ROAD
GROVER BEACH, CA 93433

RE: The tariff classification of a roadside emergency kit from China

DEAR MR. HACKETT:

In your letter dated October 15, 2009 you requested a tariff classification ruling. Descriptive literature and illustrations were submitted.

The product you plan to import is identified as the "Safety Spair Plus" kit. This 36 piece roadside emergency kit is comprised of two individual kits (a tire repair kit and a first aid kit), jumper cables, a polyester travel bag, a warning triangle, an instruction sheet, an air gauge, a rag and a box cutter. The tire repair kit consists of a portable air compressor, a tool for removing the stem from a tire valve, a bottle of non-pressurized tire sealant and a PVC carrying case.

The first aid kit includes 3 antiseptic towelettes, 1 ace bandage with 2 metal clips to secure the bandage, 1 sterile bandage, 3 gauze sponges, 1 triangle bandage with 2 safety pins, 3 insect bite antiseptic wipes, 12 adhesive bandages, 1 pair of tweezers, 1 pair of scissors, 1 roll of tape and a first aid guide. All of the items included in the Safety Spair Plus kit are packed together in a box in China and will be put as a set for retail sale in its condition as imported. Since various items are sold together, we must first determine for tariff purposes if we have a set put up for retail sale.

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). GRI 1 states in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Explanatory Notes to the Harmonized Tariff System provide guidance in the interpretation of the Harmonized Commodity Description and Coding System at the international level. The Explanatory Notes, while not legally binding or dispositive, provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the System.

Explanatory Note (X) to GRI 3(b) provides that the term "goods put up in sets for retail sale" means goods that: (a) consist of at least two different articles which are, prima facie, classifiable in different headings; (b) consist of articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking (e.g. in boxes or cases).

The articles in the kit “consist of at least two different articles which are, prima facie, classifiable in different headings” and the kit is “put up in a manner suitable for sale directly to users without repacking.” However, the kit does not “consist of products or articles put up together to meet a particular need or carry out a specific activity.” There are several needs fulfilled by this kit, but no one particular need. In addition, some of these articles can be used outside of the automobile such as the box cutter and the rag. The roadside emergency road kit does not meet the criteria for treatment as a set under GRI 3 analysis. Therefore, each of the components must be classified separately.

The applicable subheading for the portable air compressor will be 8414.80.1585, HTSUS, which provides for other air compressors, portable, and having an output of under 0.57 cubic meters per minute. The rate of duty will be free.

The applicable subheading for the bottle of non-pressurized tire sealant will be 3506.10.5000, HTSUS, which provides products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kilogram: Other. The rate of duty will be 2.1 percent ad valorem.

The applicable subheading for the PVC carrying case will be 4202.92.4500, HTSUS, which provides for travel, sport, and similar bags, with outer surface of plastic sheeting material, other. The rate of duty will be 20 percent ad valorem.

The applicable subheading for the first aid kit will be 3006.50.0000, HTSUS, which provides for “First-aid boxes and kits.” The rate of duty will be free.

The applicable subheading for the 12V jumper cables will be 8544.49.2000, HTSUS, which provides for “Insulated wire, cable ...: Other electric conductors, for a voltage not exceeding 1,000 V: Other: For a voltage not exceeding 80 V: Other.” The rate of duty will be 3.5 percent ad valorem.

The applicable subheading of the warning triangle will be 3926.90.9925, HTSUS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other: Reflective triangular warning signs for road use.” The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the instruction sheet will be 4911.99.8000, HTSUS, which provides for other (non-enumerated) printed matter. The rate of duty will be free.

The applicable subheading for the air gauge will be 9026.20.8000, HTSUS, which provides for non-“electrical” instruments and appliances for measuring or checking pressure. The rate of duty will be free.

Additional information is necessary to provide a classification for the tool to remove the valve stem, the box cutter, the travel bag and the rag. Please submit samples of the tool to remove the valve stem and the box cutter. What type of metal is the tool made of? What is the material of the blade of the box cutter? With regard to the polyester travel bag, is the bag made of 100 percent polyester or a blend of materials? Concerning the rag, what is the fiber content by weight? How will the rag be used? Please provide a sample of the rag.

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 Kenneth T. Brock at (646) 733-3009.

Sincerely,

ROBERT B. SWIERUPSKI,

Director

National Commodity Specialist Division

[ATTACHMENT N]

HQ H031458
 CLA-2 OT:RR:CTF:TCM H031458 HvB
 CATEGORY: Classification
 TARIFF NO.: Unknown

MR. JUAN DOMINGUEZ
 IMPORT AND CUSTOMS COMPLIANCE
 WAL-MART STORES, INC.
 702 SW 8TH ST.
 BENTONVILLE, AR 72716-0410

RE: Revocation of HQ 964937, HQ 965021, HQ 950678, HQ 951092, HQ 951943, HQ 084074, NY D87008, NY I81218, NY N008721, NY E80250, NY E81728, NY J86419, and NY N080536; Classification of Emergency Roadside Kits

DEAR MR. DOMINGUEZ:

This letter is to inform you that U.S. Customs and Border Protection (CBP) has reconsidered Headquarter Ruling Letter (HQ) HQ 964937, issued to you on March 19, 2002, on the classification of “99 Piece Emergency Roadside Kit”. In that ruling, CBP classified each item of the 99-piece kit separately the Harmonized Tariff Schedule of the United States (HTSUS). For example, the hose clamps was classified in heading 7326, HTSUS, as an article of steel, while the gas siphon was classified in heading 3917, HTSUS, which provides for “Tubes, pipes and hoses and fittings therefor (for example, joints, elbows, flanges), of plastics.” The items were stored in soft-sided plastic reinforced zippered bag with straps.

In addition, this ruling letter concerns the following rulings in which CBP classified substantially similar merchandise under HTSUS: HQ 084074, dated July 3, 1989, HQ 965021, dated March 19, 2002, HQ 950678, dated December 30, 1991, HQ 951092, dated February 11, 1992, HQ 951943, dated June 26, 1992, New York Ruling Letter (NY) D87008, dated February 3, 1999, NY E80250, dated April 19, 1999, NY E81728, dated May 17, 1999, NY I81218, dated May 17, 2002, NY J86419, dated July 1, 2003, NY N008721, dated April 9, 2007, NY N080536, dated November 13, 2009, and E81728, dated May 17, 1999, concerning the classification of similar merchandise. In these rulings, like the merchandise at issue in HQ 964937, the items of each kit were packed in either a carrying case or bag meant to be stored in the trunk of an automobile. We have reviewed these rulings and found them to be in error. Therefore, this ruling proposes to revoke these rulings pursuant to 19 USC 1625(c)(1).

FACTS:

The products at issue were described as follows in HQ 964937:

The “99 piece Emergency Roadside Kit” (Stock # SDA178) consists of a 10’ battery booster cable, accident information guide, emergency thermal blanket, radiator water bag, 2 light sticks, 2 hose clamps, gas siphon, vinyl glove, a paper flag that reads “Emergency Help Call Police,” red shop towel, multi-function knife, flashlight, 2 D-size batteries, poncho, roll of radiator repair tape, 6 blade fuses, 27 cable nylon ties, flammable tire sealer and first aid kit, all packed inside a soft-sided plastic, reinforced, zippered bag with straps. The bagged is monogrammed with the

words “Emergency Roadside Kit” and the triangular yellow symbol for emergencies. The kit is intended to be stored in a vehicle.

ISSUE:

Whether the emergency roadside kits are classifiable as retail sets pursuant to GRI 3?

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. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law for all purposes.

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 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.

We note that we are presented with an assortment of items that are packaged and sold in a carrying case. The goods are potentially classifiable under more than one heading because they consist of separate components and no one heading in the tariff provides for the goods as entered. The kit consists of 99 items and includes a 10’ battery booster cable, accident information guide, emergency thermal blanket, radiator water bag, 2 light sticks, 2 hose clamps, gas siphon, vinyl glove, a paper flag that reads “Emergency Help Call Police,” flag and the remaining items of the set. Since no heading of the HTSUS completely the goods, and they are *prima facie* classifiable in two or more headings, the kits may not be classified solely on the basis of GRI 1. Thus, classification must fall to GRI 3.

GRI 3 provides, in pertinent part, as follows:

When, by application of rule 2(b) [not applicable in this case] or any other reason, goods are, *prima facie*, classifiable under two or more heading, classification shall be effected as follows:

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description [...]
- (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 relevant ENs for GRI 3 provide:

(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.

...

- (X) For the purposes of this Rule, the term “goods put in sets for retail sale” shall be taken to mean goods which:
- (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings. Therefore, for example, six fondue forks cannot be regarded as a set within the meaning of this Rule;
 - (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and
 - (c) are put up in a manner suitable for sale directly to users without repackaging (e.g., in boxes or cases or on boards).

GRI 3(b) provides for the classification of goods put up in retail sets. Applying the definition of the phrase “goods put up as sets for retail sale” provided in EN (X) to GRI 3(b), the subject merchandise meets the first requirement because the product consists of two or more goods, which are *prima facie* classifiable in two or more headings of the HTSUS. In addition, the subject merchandise meets the second requirement because the items are put up together to assist the particular needs of motorists who experience a roadside emergency. The goods are put up in a manner suitable for sale because the goods are packaged in a carrying bag suitable for retail sale. Therefore, the subject 99 Piece Emergency Roadside Kit qualifies as a set for purposes of GRI 3(b).

CBP has addressed the particular need or specific activity requirement of EN(X)(b) to GRI 3 as requiring a relationship between the articles contained in a group, and such relationship must establish that the articles are clearly intended for use together for a single purpose or activity to comprise a set under GRI 3(b). *See, e.g.,* Headquarters Ruling Letter (HQ) 953472, dated March 21, 1994. Consistent with CBP’s analysis of GRI 3(b), the United States Court of International Trade (CIT) agreed that “for goods put up together to meet the ‘particular need’ or ‘specific activity’ requirement and thereby be deemed a set, they must be so related as to be clearly intended for use together or in conjunction with one another for a single purpose or activity.” The bag facilitates the storage and transportation of the items and is directly related to the activity of managing roadside emergencies. *See Estee Lauder, Inc. v. United States*, 815 F. Supp. 2d 1287, 1295 (Ct. Int’l. Trade 2012); *See also Dell Products LP v. United States*, 714 F. Supp 2d. 1252 (Ct. Int’l Trade 2010) (*Dell Products I*) (stating that GRI 3(b) “only requires that the component satisfies a ‘particular’ need”), *aff’d Dell Products LP v. United States*, 642 F.3d 1055 (Fed. Cir. 2011) (*Dell Products II*). In *Estee Lauder*, the CIT considered the classification of cosmetic items put up together for the activity of applying makeup, and concluded that because each item by itself was specifically related to makeup and had an identifiable, individual use that was intended for use together or in conjunction with one another for the single activity of putting on makeup, the cosmetic items met a particular

need and were therefore “retail sets” pursuant to GRI 3(b). *Estee Lauder*, 815 F. Supp. 2d at 1295–1296. *See also* HQ H190656, dated July 21, 2014, in which we classified certain medical supplies as retail sets.

The Explanatory Notes (ENs) to GRI 3(b)¹ provide that, if this rule applies, goods shall be classified as if they consisted of the material or component which gives them their essential character. EN Rule 3(b)(VIII) lists as factors to help determine the essential character of such goods: the nature of the materials or components, their bulk, quantity, weight or value, and the role of a constituent material in relation to the use of the goods.

As stated by the Court of International Trade in *Structural industries v. United States*, 360 F. Supp. 2d 1330, 1336 (citations omitted) (2005), “the essential character of an article is that which is indispensable to the structure, core or condition of the article, i.e., what it is. “*See also Conair Corporation v. United States*, 29 Ct. Int’l Trade, 888, 895 (citations omitted) (2005), (discussing “the concept of ‘essential character’ found in GRI 3(b)”).

The emergency kits are being imported to provide motorists with the supplies necessary to address roadside emergencies. Each kit in the aforementioned rulings varies in its contents and thus, the essential character will vary according to each kit’s contents. Without such information, we therefore conclude that the emergency kits are classified as “retail sets” pursuant to GRI 3(b) in the heading that provides the kits with its essential character.

HOLDING:

By application of GRI 3(b), the emergency kits are classified in the heading in which the emergency kit’s item provides the essential character. Accordingly, HQ 964937 is revoked.

Should you require further clarification on your specific merchandise, please contact NCSO for a ruling request. Requests for a binding ruling may be made electronically via CBP’s website, <https://apps.cbp.gov/erulings/index.asp>, or by writing to NCSO at the following address:

Director, National Commodity Specialist Division,
U.S. Customs and Border Protection
Attn: CIE/Ruling Request
One Penn Plaza, 10th Floor
New York, NY 10119

EFFECT ON OTHER RULINGS:

HQ 964937, dated March 19, 2002, HQ 084074, dated July 3, 1989, HQ 965021, dated March 19, 2002, HQ 950678, dated December 30, 1991, HQ 951092, dated February 11, 1992, HQ 951943, dated June 26, 1992, New York Ruling Letter (NY) D87008, dated February 3, 1999, NY E80250, dated April 19, 1999, NY E81728, dated May 17, 1999, NY I81218, dated May 17, 2002, NY J86419, dated July 1, 2003, NY N008721, dated April 9, 2007, and NY N080536, dated November 13, 2009, are hereby REVOKED.

¹ The Harmonized Commodity Description and Coding System 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 Customs and Border Protection (CBP) 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).

Sincerely,
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

AGENCY INFORMATION COLLECTION ACTIVITIES:

**Customs-Trade Partnership Against Terrorism (C-TPAT) and
the Trusted Trader Program**

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: Customs-Trade Partnership against Terrorism (C-TPAT) and the Trusted Trader Program. CBP proposes to revise this information collection to include the information collection requirements for a new program known as the Trusted Trader Program. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before September 30, 2015 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:

This proposed information collection was previously published in the **Federal Register** (80 FR 12510) on March 9, 2015, 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 (Public Law 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: Customs-Trade Partnership against Terrorism (C–TPAT) and the Trusted Trader Program.

OMB Number: 1651–0077.

Abstract: The C–TPAT Program is designed to safeguard the world’s trade industry from terrorists and smugglers by prescreening its participants. The C–TPAT Program applies to United States importers, customs brokers, consolidators, port and terminal operators, carriers, and foreign manufacturers.

Respondents apply to participate in C–TPAT using an on-line application at: <https://ctpat.cbp.dhs.gov/trade-web/index>. The C–TPAT Program application requests an applicant’s contact and business information, including the number of company employees, the number of years in business, and a list of company officers. This collection of information is authorized by the SAFE Port Act (P.L. 109–347).

CBP proposes to establish a collection of information for a new program known as the Trusted Trader Program. The Trusted Trader Program will involve a unification of supply chain security aspects of the current C–TPAT Program and the internal controls of the Importer Self-Assessment (ISA) Program to integrate supply chain security and trade compliance. The goals of the Trusted Trader Program are to strengthen security by leveraging the C–TPAT supply chain requirements and validation, identify low-risk trade entities for sup-

ply chain security and trade compliance, and increase the overall efficiency of trade by segmenting risk and processing by account. This Program applies to importer participants who have satisfied C-TPAT supply chain security and trade compliance requirements. The Trusted Trader application will include questions about the following:

Name and contact information for the applicant;

Business information including business type, CBP Bond information, and number of employees;

Information about the applicant's Supply Chain Security Profile; and

Trade Compliance Profile and Operating Procedures of the applicant.

CBP is developing an on-line application for the Trusted Trader Program which will be available through the C-TPAT portal. The draft Trusted Trader Program application may be viewed at: <http://www.cbp.gov/sites/default/files/documents/Trusted%20Trader%20Application.pdf>.

After an importer obtains Trusted Trader Program membership, the importer will be required to submit an Annual Notification Letter to CBP confirming that they are continuing to meet the requirements of the Trusted Trader Program. This letter should include: Personnel changes that impact the Trusted Trader Program; organizational and procedural changes; a summary of risk assessment and self-testing results; a summary of post-entry amendments and/or disclosures made to CBP; and any importer activity changes within the last 12-month period.

Current Actions: This submission is being made to revise the current information collection by adding the Trusted Trader Application and Annual Notification Letter. The estimated number of annual C-TPAT applicants was decreased, and the estimated time to complete the C-TPAT application was increased, in accordance with public comments received. Also, the estimated number of annual respondents associated with the Trusted Trader application and Annual Notification Letter were decreased, and the time to complete these tasks was increased, based on public comments received.

Type of Review: Revision.

Affected Public: Businesses.

C-TPAT Program Application:

Estimated Number of Respondents: 750.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 20 hours.

Estimated Total Annual Burden Hours: 15,000.

Trusted Trader Program Application:

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 100.

Trusted Trader Program's Annual Notification Letter:

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 100.

Dated: August 25, 2015.

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

[Published in the Federal Register, August 31, 2015 (80 FR 52485)]

