

*What Every Member of the
Trade Community Should Know About:*

U.S. Customs & Border Protection Rulings Program



AN INFORMED COMPLIANCE PUBLICATION

DECEMBER, 2009

U.S. CUSTOMS and BORDER PROTECTION

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

Publication History

First Published: December, 2009

PRINTING NOTE:

This publication was designed for electronic distribution via the CBP website (<http://www.cbp.gov>) and is being distributed in a variety of formats. It was originally set up in Microsoft Word 2003[®]. Pagination and margins in downloaded versions may vary depending upon which word processor or printer you use. If you wish to maintain the original settings, you may wish to download the .pdf version, which can then be printed using the freely available Adobe Acrobat Reader[®].

PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “informed compliance” and “shared responsibility,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record's failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

Regulations and Rulings of the Office of International Trade has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by Regulations and Rulings is entitled "U.S. Customs and Border Protection Rulings Program". It provides guidance on the administrative process involved in submitting ruling requests, requests for internal advice, requests for protest reviews, and requests to reconsider previously issued ruling letters. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to U.S. Customs and Border Protection, Office of International Trade, Executive Director, Regulations and Rulings, 799 9th Street N.W. 7th floor, Washington, D.C. 20229-1177.

Sandra L. Bell
Executive Director, Regulations and Rulings
Office of International Trade

(This page intentionally left blank)

Table of Contents

| | | |
|--------------|---|-----------|
| I. | INTRODUCTION..... | 8 |
| II. | WHAT IS A RULING?..... | 8 |
| III. | WHO CAN REQUEST A PROSPECTIVE RULING? | 9 |
| IV. | WHAT PART OF CBP ISSUES PROSPECTIVE RULINGS? | 9 |
| V. | HOW DO I REQUEST A PROSPECTIVE RULING FROM CBP?..... | 10 |
| VI. | HOW DO I REQUEST A PROSPECTIVE RULING FROM THE NCSD?..... | 11 |
| VII. | HOW DO I REQUEST A PROSPECTIVE RULING FROM HEADQUARTERS? | 12 |
| VIII. | WHAT MUST BE INCLUDED IN ALL PROSPECTIVE RULING REQUESTS SENT TO REGULATIONS AND RULINGS? | 15 |
| IX. | IS THERE ANY OTHER INFORMATION THAT I SHOULD INCLUDE WHEN SUBMITTING A PROSPECTIVE RULING REQUEST? | 15 |
| | A. Classification Requests..... | 16 |
| | B. Country of Origin Requests | 16 |
| | C. Trade Agreement and Trade Program Requests..... | 17 |
| | D. Country of Origin Marking Requests..... | 17 |
| | E. Valuation Requests | 17 |
| | F. Coastwise Trade Requests..... | 18 |
| | G. Restricted Merchandise or Intellectual Property Rights Infringement Requests | 18 |
| | H. Drawback Requests | 19 |
| | I. Temporary Importation under Bond Requests | 19 |
| | J. Foreign Trade Zone Requests | 20 |
| | K. Bonded Warehouse Entry Requests | 20 |
| | L. Merchandise Processing Fee Exemption Requests..... | 21 |
| | M. “Buy America” Requests | 21 |
| X. | WHO CAN RELY ON RULINGS ISSUED BY CBP?..... | 21 |
| XI. | WHAT HAPPENS IF I BELIEVE THAT A RULING LETTER ISSUED TO ME IS INCORRECT? | 22 |

| | |
|--|-----------|
| XII. WHAT HAPPENS IF CBP DETERMINES THAT A PREVIOUSLY ISSUED RULING IS INCORRECT? | 22 |
| XIII. WHAT HAPPENS IF I HAVE NOT REQUESTED A RULING BUT I HAVE TREATMENT?..... | 23 |
| XIV. WHAT HAPPENS IF I HAVE NOT REQUESTED A PROSPECTIVE RULING AND THE GOODS THAT I HAVE IMPORTED HAVE ARRIVED IN THE UNITED STATES? | 23 |
| XV. HOW DO I FILE A REQUEST FOR INTERNAL ADVICE? | 23 |
| XVI. HOW DO I FILE AN APPLICATION FOR FURTHER REVIEW OF A PROTEST?..... | 24 |
| XVII. WHAT HAPPENS IF A PREVIOUSLY ISSUED PROTEST REVIEW DECISION OR A DECISION ON AN INTERNAL ADVICE REQUEST IS INCORRECT? | 26 |
| XVIII. WHAT IF I AM A DOMESTIC PRODUCER OF A SIMILAR PRODUCT AND I BELIEVE THAT THE WAY THAT CBP HAS TREATED THAT PRODUCT IS INCORRECT? | 26 |
| XIX. WHAT HAPPENS IF I WOULD LIKE A COURT TO REVIEW CBP'S DECISION IN ANY OF THE ABOVE DECISIONS?..... | 26 |
| XX. CONCLUSION | 27 |
| APPENDIX..... | 28 |
| Appendix A..... | 28 |
| Appendix B..... | 30 |
| Appendix C..... | 36 |
| Appendix D..... | 37 |
| Appendix E..... | 43 |
| Appendix F..... | 44 |
| Appendix G | 45 |

(This page intentionally left blank)

I. Introduction

The United States Customs and Border Protection's (CBP) ruling program is intended to provide the international trade community with a transparent and efficient means of understanding how CBP will treat a particular import once it arrives in the United States. The purpose of this publication will be to provide an introduction to the rulings process. This publication will discuss how a member of the international trade community can request a ruling as well as a discussion on other published CBP decisions.

This publication is presented in a question and answer format. Sections II to IX discuss the procedures for obtaining a binding prospective ruling from CBP. Section X discusses who can rely on prospective ruling requests issued and published by CBP. Sections XI to XII and XVII discuss the procedures for modifying or revoking previously issued prospective rulings and the principles of decisions on internal advice requests or protest reviews. Sections XIII to XVI discuss the administrative options you have when you have not received a prospective ruling and your goods were imported into the United States. Finally, section XVIII provides a brief overview of the means by which domestic parties may challenge CBP's treatment of a particular product.

For more specific information on the rulings process, see 19 C.F.R. parts 177 and 181. In addition for an overview on importing into the United States, please see the CBP document entitled *Importing into the United States: A Guide for Commercial Importers*. New importers should also review the Informed Compliance Publication on *Entry*. Links to both of these documents are available in Appendix C and G below. The Appendixes to this document also provide you with a list of other helpful links as well as up to date contact information that we hope you will find helpful.

II. What is a ruling?

A ruling is a written decision in the form of a letter issued by Regulations and Rulings pursuant to 19 CFR Part 177 that tells the requester how CBP will treat a good or conveyance when it is imported into or arrives in the United States. In other words, the ruling letter may discuss the appropriate tariff classification, country of origin marking of the good, the country of origin for purposes of determining the duty rate of a good, etc. In order to distinguish rulings from the other types of decisions CBP issues, we often refer to these as prospective rulings. The purpose of a prospective ruling letter is to enable the trade to make business decisions that are dependent on how their goods will be treated on importation. Once issued, a prospective ruling is something on which you as a member of the trade can rely and depend on wherever your goods are imported in the United States. It is an important trade facilitation measure. In fact, the United States, together with a number of its trading partners, has proposed that all World Trade Organization (WTO) members commit to issuing advance rulings.

Last year CBP issued more than 6,800 prospective rulings to the trade. These rulings are published on the Customs Rulings Online Search System (CROSS), which is

available at *rulings.cbp.gov*. CBP is required to publish these rulings. See 19 U.S.C. §1625. The published rulings provide the international trade community with guidance on how CBP will handle similar transactions. As of December 2009, there are over 159,000 rulings available on CROSS. That number includes internal advice and protest review decisions, which will be discussed in sections XIV through XVI below.

III. Who can request a prospective ruling?

Any person or business that plans to import a particular product into the United States may request a binding ruling from CBP.¹ If the goods that are the subject of the importer's ruling request have already arrived at a U.S. port and you want a decision from CBP Headquarters as to how CBP should properly treat the merchandise, you may request internal advice or further review of a protest. Please see the discussion questions related to these issues in sections XIV-XVI below.

IV. What part of CBP issues prospective rulings?

Regulations and Rulings (RR) is responsible for issuing all binding prospective rulings. RR has three divisions that issue rulings: the National Commodity Specialist Division (NCSD) and two divisions at the Headquarters office. Prospective rulings issued by the NCSD are issued within thirty days of receipt of the ruling request. The NCSD staff is divided into four branches:

- The Metals and Machinery Branch,
- The Agricultural and Chemicals Branch,
- The Textiles and Apparel Branch, and
- The Miscellaneous Products Branch.

The NCSD issues binding prospective rulings covering:

- tariff classification,
- country of origin,
- country of origin marking, and
- preferential treatment under Free Trade Agreements (FTAs) (other than questions concerning regional value content) or special trade programs (African Growth Opportunity Act (AGOA), Andean Trade Preference Act (ATPA), etc.).

An example of a prospective ruling from the NCSD division can be found in Appendix A to this document. If you have any questions about a specific ruling that is issued by the NCSD, please contact the NIS referenced in the ruling. Their phone number can be found at the end of every NCSD ruling letter.

¹ 19 C.F.R. §177.1(c) provides that any person "as an importer or exporter of merchandise, or otherwise, has a direct and demonstrable interest in the question or questions presented in the ruling request" can make a ruling request.

The RR Headquarters Office also issues prospective rulings. An example of a ruling letter issued by Headquarters can be found in Appendix B to this document. As we said earlier, there are two divisions at the RR Headquarters Office that issue ruling letters, the Commercial and Trade Facilitation Division and the Border Security and Trade Compliance Division. These two divisions have five branches that are responsible for issuing prospective rulings. The branches are:

- The Tariff Classification and Marking Branch,
- The Valuation and Special Programs Branch,
- The Entry Process and Duty Refunds Branch,
- The Cargo Security, Carriers and Immigration Branch, and
- The Intellectual Property Rights (IPR) and Restricted Merchandise Branch.

However, the Headquarters branches are the only branches that issue prospective rulings on the following areas:

- Valuation, including regional value content determinations under FTAS
- Vessels and Carriers,
- Restricted Merchandise
- Intellectual Property,
- Duty Drawback,
- Temporary Importation Under Bonds,
- Foreign Trade Zones,
- Bonded Warehouses,
- Merchandise Processing Fees, and
- Government Procurement or "Buy America".
- Entry and Collection Procedures

V. How do I request a prospective ruling from CBP?

All ruling requests must be made in writing to the CBP office issuing the prospective ruling. To request a ruling, a requester must submit a valid ruling request to CBP. A valid ruling request must contain all of the information provided in sections VI or VII below. In addition, the request must comply with all other specific requirements discussed in section IX below. Finally, valid ruling requests are not hypothetical in nature. They must provide CBP with specific information on specific products that are to be imported into the United States. See 19 C.F.R. §§177.1, 177.2, & 177.7.

In addition, all ruling requests involving tariff classification, country of origin, country of origin marking, and basic eligibility for preferential tariff treatment under a trade preference program or an FTA should be submitted to the NCSD. All other ruling requests should be sent to the RR Headquarters Office.

VI. How do I request a prospective ruling from the NCSD?

There are two ways to submit a valid written prospective ruling request to the NCSD. The first option is to submit a written request to the NCSD. The NCSD's mailing address is:

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

A response to the request will be sent within thirty days of receipt of the prospective ruling request.

In addition to written requests, the NCSD in New York also accepts electronic requests ("eRuling") on the transactions for which the NCSD issues rulings. Under the eRulings program, the importing community may submit an electronic request for a binding ruling by accessing the eRulings Template. A link to the template is provided in the Appendix to this document. The template permits the online filing of an electronic binding ruling request directly to the NCSD. The eRulings Template is reserved exclusively for the electronic submission of initial binding ruling requests to the NCSD in New York. Any questions or follow-up inquiries concerning electronic binding ruling requests must be made to the CBP Customs Information Exchange at (646) 733-3068, 3062 or 3071. Upon transmission of an electronic request, requesters will receive an e-mail message, acknowledging their use of the template. If the transmission received by the NCSD is in good order, the requester will receive an email acknowledgement of receipt, complete with a binding ruling control number, within one business day.

If photographs, illustrations, sketches, schematics or any other documents are needed to support the ruling determination, they may be uploaded before the eRuling template is finally submitted. Attachments must be in one of the following formats: Microsoft Word (.DOC), JPEG format for pictures (.JPG), Plain text (.TXT), Adobe Acrobat (.PDF), Power Point (.ppt), and GIF image format (.gif). No zip or compressed files will be permitted.

If a transmission is received but is not in good order for one of the following reasons, it will be returned to the requester immediately upon receipt by CBP:

- The request is not a valid binding ruling request, as defined in Section V above.
- The request involves a sample.
- The text or attachment file name suffix was not in an acceptable format (see file types listed above) or contained a virus warning and would not open.
- The request is for an issue other than tariff classification, country of origin, country of origin marking, and preferential treatment under free trade agreements or special trade programs.

- The ruling request is a duplicate of a previous request.

If the request is in good order, the official binding ruling response, complete with an electronic signature, will be returned by email within thirty days of receipt of a valid ruling request. Likewise, if a mailed request is in good order, a paper ruling letter will be mailed to the person making the request.

Occasionally, it is necessary for the NCSD to submit samples to the CBP laboratory to determine physical properties pertinent to tariff classification or other issues. In such cases, the NCSD will send the requester a letter (electronically or by mail, as appropriate) advising of any delay due to laboratory analysis.

If there is insufficient information to make a determination, the NCSD may return the request and all materials submitted by the requester, along with a letter indicating what additional information is needed. See 19 C.F.R. §177.3 on non-conforming ruling requests.

The NCSD will also not issue a ruling letter if the issue presented in the ruling request is subject to litigation or it involves issues where CBP has issued conflicting rulings and is in the process of resolving that issue. See 19 C.F.R. §177.7 for situations in which no ruling letter will be issued.

Finally, on occasion the NCSD forwards a ruling request for a prospective ruling to RR Headquarters. If that happens, NCSD will send a postcard (or the electronic equivalent) to inform the requester that the case has been sent to the Headquarters office. If a request is forwarded to Headquarters, the requester can expect that a response, in the form of a letter or ruling letter, will be sent within ninety days from the time that Headquarters receives the request.

VII. How do I request a prospective ruling from Headquarters?

As discussed above there are five branches at the RR Headquarters Office that issue prospective rulings. Below is a chart detailing the rulings that each Headquarters Branch issues:

| Headquarters Branch: | Types of Decisions Issued: |
|--|--|
| Tariff Classification and Marking Branch | Prospective rulings on tariff classification and country of origin marking forwarded from the NCSD; Internal Advice Requests on Tariff Classification and Country of Origin Marking forwarded from the ports; Protest Review Decisions on tariff classification and country of origin marking forwarded from the ports; and Requests for Reconsideration of ruling letters on the tariff classification or country of origin |

| | |
|---|---|
| | marking of a good. |
| Valuation and Special Programs Branch | Prospective rulings on country of origin and preferential treatment forwarded from the NCSD; prospective rulings on the calculation of the customs value of a good including application of regional value content tests under FTAs ; rulings on “Buy America” provisions; Internal Advice Requests on the customs value and preferential treatment of goods forwarded from the ports; Protest Review Decisions on the customs value and preferential treatment of goods forwarded from the ports; Requests for Reconsideration of ruling letters on the customs value and preferential treatment of goods. |
| Entry Process & Duty Refunds Branch | Prospective Ruling Requests on Duty Drawback, Temporary Importation under Bond, Foreign Trade Zones, Bonded Warehouses, Merchandise Processing Fees, Harbor Maintenance Fees, Entry Procedures, Duty Deposit Procedures, Exemptions from Duty, Liquidation, Exportation, Refund Procedures, and Broker Requirements. Requests for Reconsideration of ruling letters on Duty Drawback, Temporary Importation under Bond, Foreign Trade Zones, Bonded Warehouses, Merchandise Processing Fees, Harbor Maintenance Fees, Entry Procedures, Duty Deposit Procedures, Exemptions from Duty, Liquidation, Exportation, Refund Procedures, and Broker Requirements. Protest Review decisions and internal advice requests on all of the above matters. |
| Cargo Security, Carriers & Immigration Branch | Prospective Ruling Requests on coastwise trade; advance cargo and passenger information; vessel, vehicle and aircraft report of arrival, entry and clearance requirements; vessel repair duties on foreign work; instruments of international traffic; in-bond movements; truck cabotage; and cartmen/lightermen. Requests for Reconsideration of ruling letters on all of the above. Internal Advice |

| | |
|--|--|
| | Requests on all of the above. Protest Review Decisions concerning vessel repair duties on foreign work. |
| Intellectual Property Rights & Restricted Merchandise Branch | Prospective rulings on questions involving potential trademark and/or copyright infringement, as well as prospective rulings regarding the scope of exclusion orders issued by the U.S. International Trade Commission (ITC) and whether certain articles may enter the U.S.; Applications for further review involving protests of a port's decision to exclude merchandise from entry. |

All ruling requests involving valuation; vessels or carriers; intellectual property or restricted merchandise; duty drawback; and Buy America related requests should be made in writing to:

U.S. Customs and Border Protection
Headquarters of Regulations and Rulings
Attn: (appropriate branch as explained above)
799 9th Street, NW
Washington, DC 20229

On occasion the Headquarters Branch tasked with the rulings request may contact the importer to request additional information. This request will normally include a requirement that the party making the request respond within a given amount of time or the case will be administratively closed.

In certain circumstances, the Headquarters Branch reviewing the request may reply by letter explaining why RR cannot issue a ruling in response to the request. See Section VI for the paragraphs discussing situations in which the NCSD will not issue rulings. In addition, see 19 C.F.R. §177.3 and §177.7 for situations in which no ruling letter will be issued.

In addition, where the ruling request demonstrates that there are conflicting ruling letters or where previously issued ruling letters do not reflect the current views of CBP, and the prior ruling has been in effect for at least 60 days, RR Headquarters Office is required to follow the notice and comment procedures required by 19 USC §1625. In that case, the RR Headquarters Office will issue a letter to the requester explaining that previously published ruling letters, protest review decisions, or internal advice decisions may not reflect CBP's current views and must be modified or revoked. The RR Headquarters Office will then issue a notice in the weekly Customs Bulletin with the proposed modification or revocation. For additional information on this process see sections XII and XVII on incorrect ruling letters and protest review decisions.

VIII. What must be included in all prospective ruling requests sent to Regulations and Rulings?

The following information is required for all ruling requests on prospective transactions sent to the NCSD and the Regulations and Rulings Headquarters Office:

- The name, address, email address and phone number of the requesting party.
- The names, addresses, email addresses and other identifying information of all interested parties (if known) and the manufacturer ID code (if known).
- The name(s) of the port(s) in which the merchandise will be entered (if known).
- A description of the transaction; for example, a prospective importation of (merchandise) from (country).
- A statement that there are, to the importer's knowledge, no issues on the commodity pending before CBP or any court. In particular, this means that the importer should not request a ruling on a transaction in which the importer has protested the entry at a port. It is very important that a requester not submit a ruling request for transactions that have either been liquidated or are currently under consideration by a CBP office. For these types of transactions the only rulings procedures available are the requests for internal advice or the requests for further review of protest decisions. See Sections XIV-XVI below.
- A statement as to whether advice has been sought from a CBP office; and if so, from whom, and what advice was rendered, if any.
- Evidence that the requester believes supports the assertions made in the ruling request.

All of these requirements can be found at 19 C.F.R. §177.2(a) and (b). In addition to the information provided above, a single ruling request may include no more than five (5) items of the same class or kind in order to be accepted.

A requester may also indicate, in the written ruling request, a desire to orally discuss the issues involved in the request. Finally, a requester may also request that CBP not disclose some of the information included in the ruling request because it contains confidential information such as trade secrets. The requester must clearly bracket or highlight the confidential information in the request and specify why that information should be kept confidential.

IX. Is there any other information that I should include when submitting a prospective ruling request?

Yes, a person requesting a ruling should submit specific information as it relates to the type of request that is being sent to CBP. To increase the likelihood that RR can respond without having to request additional information, requesters should provide as much of the below information as possible, depending on the type of ruling required. In general, CBP recommends that requesters closely review the Customs Regulations and other pertinent references, such as the HTSUS, to determine as closely as possible the

applicable law, regulation or tariff provision. This exercise will help requesters to discern what specific information CBP will need to make a determination.

A. Classification Requests

Classification rulings determine which HTSUS provisions apply to goods. The HTSUS number determines the applicable duty rate and eligibility for various trade programs. Classification depends on various factors, which vary according to the type of product involved. All classification ruling request are to be sent to the NCSD using one of the methods discussed in Section VI above and should include the following information:

- A full and complete description of the good in its imported condition.
- Component materials.
- The good's principal use in the United States.
- The commercial, common, or technical designation.
- Illustrative literature, sketches, digital photographs, flow charts etc.
- Chemical analysis, flow charts, CAS number, etc.
- Any special invoicing requirements in Section 141.89 of the Customs Regulations (19 CFR 141.89).
- Laboratory reports, if pertinent.
- The HTSUS provisions that the requester believes describe the good and the reason for that conclusion. In addition, the requester should include a description of the good that highlights the particular attributes that are relevant for classifying the good in a particular heading or subheading of the HTSUS. The reasoning should include citations to the Harmonized System Explanatory Notes, common dictionary definitions, or previously published rulings.
- Any other information that may assist in determining the classification of the article. We would suggest reviewing the Informed Compliance Publications which cover classification issues for various commodities. The titles and links to these documents are in Appendix D below.

For a general explanation on how to classify a commodity we recommend that you review the Informed Compliance Publication on *Tariff Classification* (link to the publication is in Appendix C to this document).

B. Country of Origin Requests

All ruling requests on the Country of Origin of a particular commodity should be sent to the NCSD using one of the methods described in Section VI above. The origin of goods depends on where the various production steps took place. The following detailed information will be helpful:

- Countries where each of the source materials were made or harvested.
- Countries where each of the various production steps took place.

- A complete description of the component parts and the role that those parts play in the final product.
- For country of origin determinations using the NAFTA marking rules under 19 C.F.R. part 102, please include the classification of the component parts and the final good, in addition to the information provided above.

For more specific information on rules of origin see the Informed Compliance Publication on *Rules of Origin* in Appendix C to this document. In addition, there are a number of specific informed compliance publications that reference the rule of origin requirements for specific products. See Appendix E below for links to these publications.

C. Preferential Trade Agreement and Trade Program Requests

In addition to the source and production information needed for country of origin requests, Trade Program or Free Trade Agreement rulings may also require information on costs incurred in each of the countries where production occurs. All of these ruling requests should also be sent to the NCSD using one of the methods described in Section VI above. For more specific information on the country of origin for receiving preferential treatment under trade agreements or trade programs see the Informed Compliance Publication on *Rules of Origin*. A link to this document is available in Appendix C to this document. In addition, there are a number of specific informed compliance publications that reference the rule of origin requirements for specific products. See Appendix E below for links to these publications.

D. Country of Origin Marking Requests

A requester may also wish to have CBP issue a binding ruling on the appropriate method or manner of marking the imported good as a good of a particular country. See 19 U.S.C. §1304 and 19 C.F.R. §134. All requests involving the country of origin marking of a particular commodity should be sent to the NCSD using one of the methods described in Section VI above and should include:

- A detailed description of how the article and its container will be marked.
- Illustrations that show clearly how the goods are labeled and packaged.
- Illustrations that show all other labeling and packaging details, besides the actual country of origin marking.
- A detailed description of how the goods will be used or sold upon importation.

For information on marking requirements for particular commodities see the Informed Compliance on the marking of specific products in Appendix E below.

E. Valuation Requests

A prospective ruling request involving the appropriate value of merchandise to be imported into the United States should be addressed to the Valuations and Special

Programs Branch of RR Headquarters Office as discussed in Section VII above. The request should include the following information regarding the description of the transaction:

- Description of the nature of the transactions (terms of sale).
- The relationship (if any) of the parties.
- Whether the transaction was at arm's-length.
- Additional required information depends on the issue presented. For example, if the issue is whether the commission paid by the buyer is a buying or selling commission, all the details and documentation pertaining to the roles of the parties and the payment of the commission would need to be submitted.

For additional information on the issues related to the customs valuation of an item see the Informed Compliance Publication on *Customs Valuation* as well as the *Customs Valuation Encyclopedia*. Links for both of these documents can be found in Appendix C to this document. Finally, for more specific valuation issues see the general Informed Compliance Publications Page in Appendix G below.

F. Coastwise Trade Requests

A person who intends to engage in coastwise trade within the United States may wish to seek a binding prospective ruling to determine whether or not the particular transaction infringes on the coastwise laws of the United States. A ruling request on a prospective transaction involving vessels and coastwise trade should be addressed to the Cargo Security, Carriers & Immigration Branch of RR Headquarters Office as described in Section VII above. All of these ruling requests should include the following information depending on the transaction involved:

- Information on the items and/or passengers to be transported by the vessel.
- All documents supporting the facts declared in the ruling request.
- If there are numerous documents involved, a brief explanation of the documents with particular emphasis on the relationship of the document to the overarching transaction.

For additional information on issues involving the *Coastwise Trade of Merchandise* see the Informed Compliance Publication on that issue. The link to the document is in Appendix C below.

G. Restricted Merchandise or Intellectual Property Rights Infringement Requests

Importers may wish to seek a prospective ruling from CBP on their ability to import certain items that are either restricted from being imported into the United States or for items that may infringe on another person's intellectual property rights. In particular, an importer may wish to obtain a prospective ruling on whether or not a redesigned or new product is within the scope of an exclusion order issued by the International Trade Commission (ITC) pursuant to 19 U.S.C. §1337. A ruling request

involving restricted merchandise or intellectual property should be addressed to the Intellectual Property Rights and Restricted Merchandise Branch of RR Headquarters Office as described in Section VII above. All ruling requests should include the following information depending on the transaction involved:

- A complete description of the good (including technical details or laboratory analysis), a sample, or pictures.
- For prospective rulings regarding the scope of an order issued by the International Trade Commission (ITC) pursuant to 19 U.S.C. §1337 a copy of the order and a copy of the patent.

For additional information on CBP's enforcement of intellectual property rights please see the Informed Compliance Publication entitled *Customs Enforcement of Intellectual Property Rights* in Appendix C.

H. Drawback Requests

An importer wishing to seek a binding ruling on whether or not they are eligible for drawback may send a ruling request to the Entry Process and Duty Refunds Branch of RR Headquarters Office as described in Section VII above. The request should include the following information:

- A complete description of the transaction including descriptions of the commodity or commodities involved.
- If the request involves making a determination on the commercial interchangeability of a particular good then additional information such as industry or government guidelines or standards, part numbers, value, and the tariff classification of the good.

For additional information on issues related to duty drawback see the Informed Compliance Publication on *Drawback*. A link to this document is in Appendix C below.

I. Temporary Importation under Bond Requests

An importer wishing to seek a binding ruling on whether or not their merchandise is eligible to be temporarily imported duty free under a bond may send a ruling request to the Entry Process and Duty Refunds Branch of RR Headquarters Office as described in Section VII above. The request should include the following information:

- A description of the merchandise and information relating to the reasons why it is being imported into the United States.
- Information indicating that the merchandise to be imported is not being imported for sale or for sale on approval.
- Information on whether or not the merchandise will undergo further processing in the United States.

For additional information on issues related to the temporary importation under bond of merchandise please see *Importing Into the United States* in Appendix G below. For statutory and regulatory language related to this issue please see Subchapter XIII of Chapter 98 of the HTSUS and 19 C.F.R. §§10.31 to 10.40.

J. Foreign Trade Zone Requests

An importer wishing to seek a binding ruling involving Foreign Trade Zones should send the request to the Entry Process and Duty Refunds Branch of RR Headquarters Office as described in Section VII above. The request should include the following information:

- A description of the proposed transaction and how a Foreign Trade Zone is implicated.
- The status of the Foreign Trade Zone.
- A description of the merchandise that is being brought into the Foreign Trade Zone.
- A description of what is to take place in the Foreign Trade Zone.
- A description of the merchandise that is to be imported into the United States after it has undergone processing in a Foreign Trade Zone.

For more specific information regarding Foreign Trade Zone entries please see 19 U.S.C. §§81a-81u and 19 C.F.R. Part 146. In addition we would remind everyone that Foreign Trade Zones are authorized by the Foreign-Trade Zones Board (the "Board") and supervised by CBP; therefore, some matters may fall under the jurisdiction of the Board and not CBP. More information about the Board's jurisdiction is available on the Board's website, <http://ia.ita.doc.gov/ftzpage/>, and in the Board's regulations, 15 C.F.R. Part 400.

K. Bonded Warehouse Entry Requests

An importer that would like to ship goods to the United States and have them placed into a bonded warehouse prior to importing this merchandise into the country may seek binding prospective rulings on their proposed transaction. All requests should be sent to the Entry Process and Duty Refunds Branch at RR Headquarters Office as described in Section VII above. These ruling requests should include:

- The class of the warehouse involved in the proposed transaction.
- A description of the goods involved.
- A description of any processing or packaging that may occur in the warehouse.
- Any other records and documentation that is relevant to the transaction.

For additional information on bonded warehouses please see 19 U.S.C. §§1555-1563 and 19 C.F.R. Part 19.

L. Merchandise Processing Fee Exemption Requests

An importer seeking a binding ruling on whether or not the merchandise that they intend to import is subject to the Merchandise Processing Fee may send their request to the Entry Process and Duty Refunds Branch of RR Headquarters Office as described in Section VII above. All ruling requests should include the following additional information:

- A complete description of the goods including the tariff classification of the merchandise to be imported.
- Information to determine the country of origin of the merchandise.

For additional information please see 19 U.S.C. §58c.

M. “Buy America” Requests

Foreign and domestic manufacturers; U.S. importers, domestic producers and wholesalers; members of domestic labor unions that are employed in the manufacture, production or wholesale of like products; and trade organizations that draws a majority of its membership from domestic producers, manufacturers, and wholesalers of a like product may request an advisory ruling or final determination on the country of origin for purposes of Title III of the Trade Agreements Act of 1979 (19 U.S.C. §§2511-2518). All of these requests should be addressed to the Valuation and Special Programs Branch of RR Headquarters Office as described in Section VII above. All ruling requests should include the following additional information:

- A statement that the requester is authorized to file the request.
- A description of the good, including how it manufactured, the costs of the component parts, the role of those parts in the final good, etc.
- The country or instrumentality that is purported to be the origin of the good.
- If applicable, the specific procurement for which the final determination is requested.

For additional information regarding this issue see the Informed Compliance Publication on *Rules of Origin*. A link to this document is in Appendix C below. For a detailed description of the rulings process on this issue see 19 C.F.R. Part 177 Subpart B.

X. Who can rely on rulings issued by CBP?

The person receiving the ruling letter can rely on the binding prospective ruling until either the law changes, or until CBP modifies or revokes the ruling. Any person receiving a ruling letter is required to include a copy of the letter or otherwise indicate the ruling number in the entry documents when importing the good that is described in the letter. See 19 CFR §177.8(a)(2)

Any importer that wishes to rely on a ruling letter issued to someone else should make sure that the letter has not been modified or revoked. CBP may modify or revoke previously issued ruling letters without issuing any notice or by issuing a second ruling letter if the initial ruling letter is less than sixty days old. Alternatively, the ruling may be revoked by operation of law. See 19 C.F.R. §177.12(b) and (d) and the discussion below. The most efficient method of insuring that you know how CBP will treat your merchandise is to obtain a binding ruling before the good arrives in the United States. For a discussion on the modification and revocation of previously issued ruling letters see section XII below.

XI. What happens if I believe that a ruling letter issued to me is incorrect?

If you believe that a ruling letter issued to you is incorrect you have the right to appeal the ruling letter, whether it was issued by the NCSO or Headquarters Office. To appeal the decision in the previously issued ruling letter, you may mail a written request to RR Headquarters Office at the address in Section VII above asking Headquarters to reconsider the correctness of the previously issued letter. All reconsideration requests must explain why the previously issued ruling is incorrect. In particular, in the reconsideration request, the person receiving the initial ruling should provide arguments as to why CBP's application of the law is incorrect. This analysis may also include citations to previously issued rulings on the same merchandise or transaction.

XII. What happens if CBP determines that a previously issued ruling is incorrect?

CBP, through the RR Headquarters Office, may determine that a previously issued ruling is incorrect. If this is the case, the procedure depends on how long the ruling has been in effect. If the ruling letter is less than 60 days old, CBP may simply issue a new ruling letter to the ruling recipient indicating that the previous ruling letter has been modified or revoked. The new ruling letter will be effective upon publication.

If the questioned ruling has been issued more than sixty days ago and CBP determines that this ruling must be modified or revoked, notice and comment procedures must be followed. In this case, CBP issues a notice in the weekly Customs Bulletin. The notice contains a copy of the rulings to be revoked as well as a copy of the proposed new rulings. Once a notice is published in the Customs Bulletin, CBP will then provide the public with thirty days in which to submit comments on the proposed letters. The public is encouraged to submit comments regarding the correctness of the legal analysis provided for in the proposed ruling letters.

All comments should be sent to the address provided in the Customs Bulletin notice. Once the comment period is closed, CBP will consider all the comments that were timely received and will address the concerns expressed in those comments in the final ruling letter, which is also published in the weekly Customs Bulletin. This revised or modified ruling letter will be effective sixty days after the date it is published in the Customs Bulletin. Alternatively, based on the comments received CBP, may decide

that its proposed ruling letters were incorrect and may issue a notice withdrawing the proposed modifications or revocations. CBP may also issue a notice to withdraw a proposed modification or revocation of previously published ruling letters if CBP determines based on the comments received, that the final ruling letter must be significantly changed. In that event another notice with newly proposed ruling letters will be issued in the weekly Customs Bulletin.

As mentioned above, in certain situations, a ruling may be modified or revoked by operation of law, without any action by CBP. This occurs when a ruling is contrary to a recently issued Court decision, recently enacted legislation, or a Presidential Proclamation. In these situations, notice and comment procedures do not apply. See 19 CFR §177.12 (d).

XIII. What happens if I have not requested a ruling but I have “treatment”?

There may be times when CBP has not issued a ruling, internal advice or a protest review decision, concerning a particular issue, but has made decisions involving that matter at one or more ports of entry so that consistent treatment has been given. The conditions for determining whether treatment has been accorded are set out in 19 C.F.R. §177.12(c)(i). In essence it requires an actual determination by a CBP officer that resulted in a consistently applied decision over a two year period on a national basis. The law requires that if CBP wishes to issue a prospective ruling, internal advice, or other decision which would have the effect of changing that treatment, it must follow the same notice and comment procedure described for modifying or revoking previously issued ruling letters. See 19 U.S.C. §1625(c)(2).

XIV. What happens if I have not requested a prospective ruling and the goods that I have imported have arrived in the United States?

In this circumstance you will have two procedural options. The first option is to request that the port seek internal advice if the port disagrees with how you believe that CBP should treat the commodity. For specific procedures on internal advice see 19 C.F.R. §177.11. The second option is to wait until the port has made a decision on the entry and then protest that decision and request further review of the protest decision should the port deny your protest. If you choose this option, you must protest and request further review of the decision within 180 days of the port's liquidation of the entry. For specific information on protests and protest review decisions see 19 C.F.R. part 174.

XV. How do I file a request for internal advice?

An importer may request that the port seek internal advice from RR Headquarters Office if the importer disagrees with the port concerning the application of a ruling letter issued to the importer or in situations in which the importer has not received a prior ruling but disagrees with how the port indicates it will treat the commodity. See 19 C.F.R. §177.11.

A request for internal advice from an importer must be made in writing to the port where the goods entered the United States. The request must include a complete description of the transaction, the applicable issues involved, the law governing the situation, and an argument for the importer's position. The importer should also include a timeline of events that gave rise to the request. Finally, the importer must include a statement that the same or similar transaction has never been considered or is not currently being reviewed by any other CBP office or port. See 19 C.F.R. §177.11(b)(1)(ii).

Once the importer submits the request for internal advice to the port where the goods were imported, the port will review the request and determine whether or not they disagree with the importer. If the port determines that there is a disagreement, the request will be forwarded to the RR Headquarters Office for review and decision.

Headquarters will review the request for internal advice and issue a ruling letter to the port explaining how the field office should treat the goods. This ruling letter will represent the official position of CBP on the application of the Customs laws to the particular product. In addition, the port will be instructed to furnish a copy of the letter to the importer within sixty days of receipt of the ruling letter. An electronic version of the letter will also be published on CROSS.

XVI. How do I file an application for further review of a protest?

The initial question that all importers must answer before filing an application for further review of a protest, is whether or not the problem that they have with the way that the port has treated the good is a protestable matter. Importers may file a protest with the port where the goods were entered on the following seven decisions of a port director:

- the appraised value of the merchandise;
- the classification and rate and amount of duties chargeable;
- all charges or exactions of whatever character including the accrual of interest within the jurisdiction of the Secretary of the Treasury;
- the exclusion of merchandise from entry or delivery under any provision of the Customs laws;
- the liquidation or reliquidation of an entry, or reconciliation as to the issues contained therein, or any modification thereof, including the liquidation of an entry pursuant to either section 500 or section 504, Tariff Act of 1930, as amended;
- the refusal to pay a claim for drawback; and
- the refusal to reliquidate an entry under section 520(d), Tariff Act of 1930, as amended.

For the precise statutory and regulatory language on what matters are protestable see 19 U.S.C. §1514 and 19 C.F.R. §174.11.

Once you have determined that you have an issue that you can protest, you must file a formal protest with the port where the goods were imported. The importer should use CBP Form 19 (a link to this document is available in Appendix G) to file a protest. The port will then review your protest and decide whether or not it agrees with your position. In the event that the port agrees with your position it will allow the protest and liquidate the entry according to your position. If the port disagrees with your position, it will deny the protest and liquidate the entry.

As a means of affording review by CBP Headquarters of certain decisions of the ports, CBP gives importers the right to request further review of protest decisions. To file an application for further review of the protest, the importer must fill out Section V of CBP Form 19, the standard CBP protest form, at the time they file the protest or they may file the request on a separate Form 19. In this case, the importer must file the second CBP Form 19 within the time allotted to file a protest, which is 180 days from the date of the port's decision on the first entry that you wish to protest. In all cases, the importer must provide the port with four copies of the application. The application should include the following general information:

- information identifying the protest to which it applies and the protesting party and his importer number;
- a statement on whether or not you have filed a request for a prospective ruling, internal advice, or a protest on the same products at a different port or CBP office, or that you have filed suit at the Court of International Trade
- finally the importer must include any additional factual information or additional legal arguments that are not included in the current record, especially information to support the importer's claim for further review.

See 19 C.F.R. §174.25 for information on the procedure for requesting further review of a protest decision.

In addition, you also must provide an explanation on why you are eligible for receiving a further review of your protest pursuant to 19 C.F.R §174.24. All applications for further review must explain why the port's protest decision is either:

- inconsistent with a previously issued ruling;
- involves questions of law or fact that have never been ruled on by CBP or the courts;
- involves previously issued ruling letters or court decisions but the importer is providing new facts or legal arguments that were not presented to CBP or the courts at the time of their decision;
- involves a question that Regulations and Rulings Headquarters Office refused to answer in the form of an internal advice request.

In addition to the information required to support the importer's application for further review, the importer should include the same information and legal arguments

provided when submitting a ruling request on a prospective transaction. The RR Headquarters Office will review the importer's entire submission. RR can either deny the request for further review or grant the request and issue a substantive decision. In situations where RR decides that the importer does not have a basis for receiving further review of a protest decision, RR will issue a letter to the port stating that the basis for further review was not met and that the protest is being returned for the port's disposition of the matter. If the basis for further review has been met, a substantive decision will be sent to the port director of the port where the goods were imported into the United States. The port director is requested to forward that decision to the importer within sixty days of receipt of the letter from Headquarters. An electronic version of this letter must be published on CROSS.

XVII. What happens if a previously issued protest review decision or a decision on an internal advice request is incorrect?

In situations where a previously issued protest review decision or decision on an internal advice request is incorrect, CBP can only modify or revoke the analysis on which the letter relies. See 19 C.F.R. §177.12(b). CBP uses the same process that is explained in section XII above for revoking or modifying prospective ruling letters. However, any decision to modify or revoke a published protest review decision or decision on an internal advice request will not apply to previously entered goods. Instead, in accordance with law and regulation the modification or revocation will apply to future importations of the particular good described in the second letter.

XVIII. What if I am a domestic producer of a product and I believe that the way that CBP has treated a similar imported product is incorrect?

Domestic Interested Parties may submit a written petition to CBP challenging the correctness of a previously published ruling on the classification, appraised value, or rate of duty imposed on a particular imported product. A domestic interested party can be domestic manufacturers, producers, wholesalers; unions representative of a domestic industry; or a trade association with a majority of its members being drawn from the United States that manufacture, produce, or wholesale a like product in the United States. A domestic interested party may submit a petition to CBP claiming that CBP's decision as published in a ruling letter or protest review decision is incorrect. For additional information on the procedures involved in this process see 19 C.F.R. Part 175.

XIX. What happens if I would like a court to review CBP's decision in any of the above decisions?

You may file a complaint against the United States in the Court of International Trade ("CIT"). The CIT has exclusive jurisdiction over the decisions described in this publication. See 28 U.S.C. §1581. The complaint must be filed within 180 days of CBP's decision to deny the protest. See 28 U.S.C. §2636(a). A complaint challenging CBP's decision in a prospective ruling letter must be brought within two years of the

issuance of the ruling letter. See 28 U.S.C. §2636(i). Finally, a complaint challenging CBP's decision on a domestic interested party petition must be filed within thirty days after CBP provides the information enabling the domestic interested party to contest CBP's determination. See 28 U.S.C. §2636(b).

XX. Conclusion

We hope that this publication has provided you with an overview of the various rulings and decisions that are issued and published by CBP.

In summary, if you plan on importing into the United States, you may wish to consider obtaining a binding ruling before the product arrives at the port so that you will know how CBP will treat the merchandise. Should you disagree with the ruling that you have received, you may appeal that letter by sending a request for reconsideration to the RR Headquarters Office. In addition, if you have questions about how a port is handling your goods, you may request that the port seek internal advice from the RR Headquarters Office. Finally, if you disagree with the port's decision regarding your merchandise you may protest that decision and request that the RR Headquarters Office review the port's decision on the protest so long as certain requirements are met. By following the suggestions above in formulating your requests, you can make the process of obtaining a ruling or other decision from CBP as problem free as possible.

Appendices:

Appendix A

Sample New York Ruling Letter:

N077393

October 20, 2009

CLA-2-39:OT:RR:NC:N4:421

CATEGORY: Classification

TARIFF NO.: 3926.40.0000

Mr. Peter Salvato
Import Commodity Group Ltd.
131 East Merrick Road
Valley Stream, NY 11580

RE: The tariff classification of gel clings from China

Dear Mr. Salvato:

In your letter dated September 14, 2009, you requested a tariff classification ruling.

The sample provided with your letter is an assortment of gel clings composed of soft jelly-like thermoplastic elastomer. The sports gel clings, item WCHZSMMBHOLCW, are in the shapes of various sports logos, letters and other decorative shapes. The clings adhere to smooth flat surfaces such as glass windows and mirrors without the need for adhesives. As you requested, the sample will be returned.

The applicable subheading for the gel clings will be 3926.40.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for other articles of plastics...statuettes and other ornamental articles. The rate of duty will be 5.3 percent ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Joan Mazzola at (646) 733-3023.

Sincerely,

Robert B. Swierupski
Director
National Commodity Specialist Division

Appendix B

Example of a Headquarters Ruling Letter:

HQ H046780

March 10, 2009

CLA-2 OT:RR:CTF:TCM H046780 HkP

CATEGORY: Classification

TARIFF NO.: 3924.90.56

R. Kevin Williams, Esq.
Rodriguez O'Donnell Gonzales & Williams, P.C.
Attorneys and Counselors at Law
8430 West Bryn Mawr Ave., Suite 525
Chicago, IL 60631

RE: Tariff Classification of the Relaxa® Ultra Shower Head 5 and the Relaxa® Sensi Top 4 hand shower

Dear Mr. Williams:

This letter is in response to your request dated October 22, 2008, submitted on behalf of Grohe America, Inc. ("Grohe"), for a binding ruling on the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) of the "Relaxa® Ultra Shower Head 5" and the "Relaxa® Sensi Top 4 hand shower." Samples, schematic drawings, and information on the products' components were submitted for our review.

In reaching our decision we have also taken into consideration arguments made by counsel during a teleconference with a member of my staff on February 25, 2009, as well as in a submission dated February 27, 2007.

FACTS:

The Relaxa® Sensi Top 4 hand shower is described as a handle approximately six inches long that is attached to a rounded head containing shower nozzles. The "face" portion of the shower head is made of plastic and features a ring of SpeedClean® nozzles. These nozzles are made from multi-component silicone rubber and are designed so that limescale build-up can be removed by wiping with a finger or a cloth. According to the submitted information, the hand shower incorporates Grohe's DreamSpray® technology, which distributes the same amount of water to each nozzle using a very thin cavity. The result is "an even, all-over spray without any dry spots."

The Relaxa® Sensi Top 4 is available in a chrome finish. It will be attached to other parts of a bath plumbing system with a flexible hose, which is not at issue.

According to the submitted information, the Relaxa® Ultra Shower Head 5 offers five different spray patterns, which are selected by rotating the face of the shower head. Like the Relaxa® Sensi Top 4 hand shower, the Ultra Shower Head 5 incorporates DreamSpray® technology and SpeedClean® nozzles. It also has a chrome finish. The shower head will be attached to other parts of a bath plumbing system with the brass metal fitting at the upper end of the shower head.

You believe that the correct classification for both these products is under heading 8424, HTSUS, as parts of mechanical appliances for projecting, dispersing or spraying liquids or powders. In addition, you believe that rulings in which CBP classified shower heads and handheld showers under heading 3924, as other household articles of plastics, “are mistaken and should not be followed here.” See, e.g., Headquarters Ruling Letter (HQ) 962584, dated July 27, 1999.

ISSUES:

Is a “shower” a mechanical appliance for projecting, dispersing or spraying liquids or powders?

Are the handheld shower and the shower head parts of mechanical appliances for projecting, dispersing or spraying liquids or powders, classified under heading 8424, HTSUS, or other household articles of plastics, classified under heading 3924, HTSUS?

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 2009 HTSUS provisions under consideration are as follows:

3924 Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics:
3924.90 Other:
3924.90.56 Other.....

8424 Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines; parts thereof:
8424.90 Parts:
8424.90.90 Other

You claim that the products at issue are precisely described by heading 8424, HTSUS, because they are parts of “mechanical appliances,” as those terms have been defined by Customs and lexicographic sources. You cite definitions of the term “mechanical” provided in Webster’s Third New International Dictionary (1986), such as, “of, or relating to, or concerned with machinery or tools” and “produced or operated by a machine or tool.” In turn, you also cite definitions of the term “machine” provided in the same dictionary. They include, “an assemblage of parts that are usually solid bodies but include in some cases fluid bodies or electricity in conductors and that transmit forces, motion, and energy one to another in some predetermined manner and to some desired end (as for sewing a seam, printing a newspaper, hoisting a load, or maintaining an electric current)” and “an instrument (as a lever) designed to transmit or modify the application of power, force, or motion.” You state that CBP has defined the term “appliances” as “apparatus for a particular purpose,” an “instrument or device designed for a particular use” (HQ 964834, May 23, 2002), or as a “piece of equipment for adapting a tool or machine to a special purpose” (HQ 963807, Nov. 21, 2000).

In addition, you direct our attention to J.E. Bernard & Co., Inc. v. United States, 60 Cust. Ct. 296, Cust. Dec. 3372 (1968), in which the court interpreted the scope of Tariff Schedules of the United States (TSUS) item 662.50, which provided for, among other things, mechanical appliances for projecting or dispersing liquids. At issue in that decision was the correct classification of various types of water fountain nozzles made of brass and bronze, each of which depended on a pump to create the pressure with which the nozzle operated and which served to recirculate the water in the fountain. Id. at 299. The court found that the fountains with which the nozzles were used were mechanical appliances for projecting, dispersing, or spraying liquids within the meaning of the tariff schedules because they operated mechanically by means of pumps, motors, valves and other items. Id. at 305-06. According to the court, mechanical appliances “operate mechanically,” that is, they “change one form of motion or energy into another form” (citing the common meaning of the word “machine” relied on in The Durst Mfg. Co., Inc. v. United States, 50 CCPS 56, C.A.D. 820). Id. at 304. Based on this understanding, the court in J.E. Bernard found that the nozzles under its consideration were neither machines nor mechanical appliances for spraying liquids. Id. The court also found that the nozzles were parts of fountains because their only use was with other components to form fountains and, as such, were properly classified as parts under TSUS item 662.50.

Based on the decision in J.E. Bernard & Co., Inc. v. United States, you believe that the shower assemblies to which the shower head and hand shower at issue are attached are “mechanical appliances” of heading 8424, HTSUS, because they are an “assemblage of parts’ (shower head, hose, valves,

plumbing, etc.) in which the energy, motion or force of the stream of water moving though them is modified or transmitted into a spray for the purpose of providing a shower bath to the user ...”

In the alternative, you argue in your supplemental submission that the shower heads and hand showers may be simple machines in their own right because they utilize “a sophisticated design that changes the water and water pressure supplied by the supplied by the domestic plumbing system into a different and sometimes a variety of spray patterns.”

Decisions by the courts interpreting nomenclature under the HTSUS' predecessor tariff code, the TSUS, are not deemed dispositive under the HTSUS. However, on a case-by-case basis, such decisions should be deemed instructive in interpreting the HTSUS, particularly where the nomenclature previously interpreted in those decisions remains unchanged and no dissimilar interpretation is required by the text of the HTSUS. Omnibus Trade and Competitiveness Act of 1988, Public Law 100-418, Aug. 23, 1988, 102 Stat. 1107, 1147; H.R. Rep. No. 576, 100th Cong., 2d Sess. 549-550 (1988); 1988 U.S.C.C.A.N. 1547, 1582-1583. In this instance, we find instructive the discussion of the court in J.E. Bernard & Co., Inc. v. United States on mechanical appliances for projecting, dispersing or spraying liquids and their parts.

Unlike the fountains in J.E. Bernard and the goods of heading 8424, HTSUS, the “shower assemblies” to which the instant goods are connected are merely pipes behind a bathroom wall, the water in which is controlled by valves and levers contained in the fixtures on the visible side of the wall. Bathroom plumbing is not a mechanical appliance because it does not change one form of energy or motion to another. The same is true for the hand showers and shower heads, which are akin to the nozzles considered by the court in J.E. Bernard and found not to be machines or mechanical appliances for spraying liquids. Consequently, neither the shower assemblies nor the shower heads or hand showers are classifiable as mechanical appliances of heading 8424, HTSUS.

In your supplemental submission you argue that:

While a home plumbing system that is connected to a municipal water supply system does not typically include a pump within the dwelling, the system itself utilizes a variety of means to pressure the system so that each dwelling has adequate water pressure to operate the domestic plumbing system.... Thus the entire municipal water system can be considered a vast machine of which the shower heads at issue herein are a part.

You also state that many rural dwellings that are not connected to a municipal water system utilize a pump to raise water out of a well or cistern. You argue that, “[i]n both these contexts, the shower heads and hand showers could be considered a part of the mechanical appliance that forms the typical domestic plumbing system.”

The HTSUS provides for articles of commerce. Heading 8424, HTSUS, provides for, in relevant part, “mechanical appliances,” the meaning of which we have already

discussed. It is clear that, in no way, could a municipal water system be defined as a mechanical appliance of heading 8424, HTSUS. A municipal water system is not an “appliance” and it is not a commercially traded good provided for in the HTSUS. Moreover, while domestic plumbing may at some point connect to a municipal water system, it is not a part of that system. Accordingly, we are not persuaded by your argument that the municipal water system is a “vast machine” of heading 8424, HTSUS.

Furthermore, the Court of Appeals for the Federal Circuit has defined a “part” as an “item dedicated solely for use with another article”. Bauherhin Technologies Limited Partnership v. United States, 110 F. 3d 774, 779 (citations omitted) (Fed. Cir. 1997). In this instance, what is commonly referred to as a bathroom “shower” is not “an article” within the commercial sense of the word. A consumer cannot purchase a “shower”; they can purchase the bathroom fixtures to attach to pipes behind a bathroom wall, the shower head, and possibly a shower stall. Because a bathroom shower is not an article, a shower head or handheld shower cannot properly be considered to be a “part” of a shower. Finally, your argument regarding well and cistern pumps creating machines out of bathroom plumbing is not persuasive because those pumps do not operate directly on bathroom plumbing but are a part of a larger plumbing system.

As you have noted, CBP has previously classified handheld showers and shower heads under heading 3924, HTSUS, as other household articles of plastics. You argue that this classification is incorrect because “the shower head and hand shower are qualitatively different than the exemplars provided in the Explanatory Notes” and that “the Explanatory Notes clearly state that toilet articles intended for permanent installation in or on walls or other parts of buildings are excluded from the scope of heading 39.24” (internal quotation marks omitted). You conclude that there is no part of heading 3924, HTSUS, that accurately describes your goods.

We disagree. The Explanatory Notes are merely indicative of the type of goods provided for in a heading but cannot narrow the scope of the heading. Heading 3924 provides for, among other things, the very broad categories of plastic household articles and plastic toilet articles. To the extent that EN 39.24 does not reflect the expansiveness of these categories, it is not an accurate reflection of the scope of the heading.

You also argue that the instant goods cannot be classified in heading 3924 because they have a metal exterior surface and are therefore not goods “of plastics.” However, we note that the metal exterior surface to which you refer is nothing more than a metal-colored (chrome) finish that gives the goods the appearance of metal products.

Based on all of the foregoing, we find that the shower heads and handheld showers at issue are classified under heading 3924, HTSUS, as other household articles and toilet articles of plastics.

HOLDING:

By application of GRI 1, the Relaxa® Ultra Shower Head 5 and the Relaxa® Sensi Top 4 hand shower are classified under heading 3924, HTSUS. They are specifically provided for 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% *ad valorem*.

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

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

Sincerely,

Gail A. Hamill, Chief

Tariff Classification and Marking Branch

Appendix C

Specifically Mentioned Informed Compliance Publications:

Entry:

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp073.ctt/icp073.pdf

Tariff Classification:

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp017r2.ctt/icp017r2.pdf

Rules of Origin:

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp026.ctt/icp026.pdf

Customs Valuation:

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp001r2.ctt/icp001r2.pdf

Customs Valuation Encyclopedia:

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp060r9.ctt/icp60.pdf

Coastwise Trade: Merchandise:

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/merchandise.ctt/merchandise.pdf

Drawback:

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp023.ctt/icp023.pdf

Customs Enforcement of Intellectual Property Rights:

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/enforce_ipr.ctt/enforce_ipr.pdf

Appendix D

Informed Compliance Publications on the Tariff Classification of Specific Products:

Agglomerated Stone

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp88.ctt/icp88.pdf

Articles of Wax, Artificial Stone and Jewelry

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp016.ctt/icp016.pdf

Base Metal Mountings and Fittings

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp082.ctt/icp082.pdf

Basic Forms of Non-Ferrous Metals

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp075.ctt/icp075.pdf

Beauty and Skin Care Products of Heading 3304

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp84.ctt/icp84.pdf

Button, Snap Fasteners, Slide Fasteners and Similar Articles

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp071.ctt/icp071.pdf

Cane and Beet Sugar (Quota, Classification & Entry)

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp044r2.ctt/icp044r2.pdf

Caviar

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp011.ctt/icp011.pdf

Classification: Apparel Terminology under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp057.ctt/icp057.pdf

Classification and Entry Requirements of Alcoholic Beverages and Spirits

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp_spirits.ctt/icp_spirits.pdf

Classification and Marking of Pipe Fittings

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/cm_pipe_fittings.ctt/cm_pipe_fittings.pdf

Classification and Marking of Watches and Clocks

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp055.ctt/icp055.pdf

Classification and Quota Status of Raw Cotton under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp002r2.ctt/icp02.pdf

Classification of Children's Apparel

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp036.ctt/icp036.pdf

Classification of Coated and Water Resistant Apparel

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/apparel_coated.ctt/apparel_coated.pdf

Classification of Cooking Ranges, Stoves and Ovens

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp086.ctt/icp086.pdf

Classification of Hats and Other Headgear under the HTSUS Heading 6505

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp034.ctt/icp034.pdf

Classification of Knit to Shape Apparel Garments under HTSUS Heading 6110

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp083.ctt/icp083.pdf

Classification of Molds and Their Parts under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp059.ctt/icp059.pdf

Classification of Ribbons & Trimmings under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp019.ctt/icp019.pdf

Classification of Sets

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp038.ctt/icp038.pdf

Classification of Textile Costumes under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp077.ctt/icp077.pdf

Coated Nonalloy Flat-Rolled Steel

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp051.ctt/icp051.pdf

Coffee

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp085.ctt/icp085.pdf

Colored Bubble Glass (and Other Special Types of Glassware)

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp056.ctt/icp056.pdf

Cutlery of Headings 8211 through 8215 of the Harmonized Tariff Schedule of the United States

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/cutlery_headings.ctt/cutlery_headings.pdf

Decals, Decorative Stickers and Window Clings

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp087.ctt/icp087.pdf

Decorative Glassware

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp068.ctt/icp068.pdf

Diodes, Transistors & Similar Semiconductor Devices

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp042.ctt/icp042.pdf

Distinguishing Bolts from Screws

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp013.ctt/icp013.pdf

Eyewear Frames and Eyewear

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp_eyewear.ctt/icp_eyewear.pdf

Fasteners of Heading 7318

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/fasteners_head_7318.ctt/fasteners_head_7318.pdf

Fibers & Yarns Construction and Classification under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp005r2.ctt/icp005r2.pdf

Footwear

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp022.ctt/icp022.pdf

Gaskets

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp74.ctt/icp74.pdf

Gloves, Mittens & Mitts, Not Knitted or Crocheted, Under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp029.ctt/icp029.pdf

Granite

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp012.ctt/icp012.pdf

Hand Tool Sets Classified Within Subheadings 8205.90 and 8206.00

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp070.ctt/icp070.pdf

Household Articles of Base Metal

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp079.ctt/icp079.pdf

Internal Combustion Piston Engines

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp014.ctt/icp014.pdf

Locks of Base Metal

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp_locks_metal.ctt/icp_locks_metal.pdf

Machine Tools

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp080.ctt/icp080.pdf

Mushrooms

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp007r2.ctt/icp007r2.pdf

New Decisions on Candle Holders v. Decorative Glass Articles

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp047.ctt/icp047.pdf

Peanuts and their Classification under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp009r2.ctt/icp009r2.pdf

Personal Digital Assistants (PDAs) and Electronic Organizers

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp078.ctt/icp078.pdf

Classification and Quota Status of Raw Cotton under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp002r2.ctt/icp02.pdf

Soldering and Welding Machines and Apparatus

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp043r2.ctt/icp043r2.pdf

Stranded Wire, Rope and Cable, of Iron or Steel

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp081.ctt/icp081.pdf

Table and Kitchen Glassware

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp050.ctt/icp050.pdf

Tableware, Kitchenware, Other Household Articles and Toilet Articles of Plastics

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp031.ctt/icp031.pdf

Classification of Textile Costumes under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp077.ctt/icp077.pdf

Tractors (HTSUS 8701) vs. Heavy Industrial Machinery (HTSUS 8429 & 8430)

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp054.ctt/icp054.pdf

Turbojets, Turbopropellers and Other Gas Turbines, (HTSUS 8411) and Parts Thereof

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp045.ctt/icp045.pdf

Vehicles, Parts and Accessories

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp015r2.ctt/icp015.pdf

Vending Machines and Their Parts under the HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp072.ctt/icp072.pdf

Wadding, Gauze, Bandages & Similar Articles (HTSUS 3005)

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp053.ctt/icp053.pdf

Waste & Scrap as it Relates to Base Metals of Chapter 81

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp030.ctt/icp030.pdf

Works of Art, Collector's Pieces, Antiques, and Other Cultural Property

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp061.ctt/icp061.pdf

Writing Instruments of Heading 9609 HTSUS

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp046.ctt/icp046.pdf

Appendix E

Informed Compliance Publications on Rules of Origin for Marking and Preferential Treatment:

African Growth and Opportunity Act

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp065.ctt/icp065.pdf

Country of Origin of Knit to Shape Apparel Products

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp033c.ctt/icp033c.pdf

Foreign Assembly of U.S. Components

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp067.ctt/icp067.pdf

Marking Requirements for Wearing Apparel

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp039.ctt/icp039.pdf

NAFTA Country of Origin Rules for Monumental & Building Stone

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp041.ctt/icp041.pdf

NAFTA Eligibility and Building Stone

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp025r2.ctt/icp025r2.pdf

NAFTA for Textiles & Textile Articles

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp003r2.ctt/icp003.pdf

Textile & Apparel Rules of Origin

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icp006r3.ctt/icp006r3.pdf

U.S. Caribbean Basin Trade Partnership Act

http://www.cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/us_carib_trade.ctt/us_carib_trade.pdf

Appendix F

Helpful Contact Information:

| | |
|--|--------------|
| Regulations and Rulings Headquarters Mainline: | 202-325-0100 |
| National Commodity Specialist Division Mainline: | 646-733-3000 |
| Tariff Classification and Marking Branch: | 202-325-0010 |
| Valuation and Special Programs Branch: | 202-325-0040 |
| Entry Process and Duty Refunds Branch: | 202-325-0270 |
| Cargo Security, Carriers and Immigration Branch: | 202-325-0030 |
| IPR and Restricted Merchandise Branch: | 202-325-0020 |

Appendix G

Helpful Links:

CBP website:

www.cbp.gov

Importing into the United States: A Guide for Commercial Importers:

<http://www.cbp.gov/linkhandler/cgov/newsroom/publications/trade/ius.ctt/ius.doc>

CROSS:

rulings.cbp.gov

Informed Compliance Main Page:

http://www.cbp.gov/xp/cgov/trade/legal/informed_compliance_pubs/

Weekly Customs Bulletins:

http://www.cbp.gov/xp/cgov/trade/legal/bulletins_decisions/

E-Rulings Requests:

<https://apps.cbp.gov/erulings/index.asp>

CBP Forms:

<http://www.cbp.gov/xp/cgov/toolbox/forms/>

CBP Form 19:

http://forms.cbp.gov/pdf/CBP_Form_19.pdf

Tips for New Importers and Exporters:

http://www.cbp.gov/xp/cgov/trade/trade_outreach/diduknow.xml

ADDITIONAL INFORMATION

The Internet

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, the "Know Before You Go" publication and traveler awareness campaign is designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>.

Customs Regulations

The current edition of Customs and Border Protection Regulations of the United States is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound edition of Title 19, Code of Federal Regulations is also available for sale from the same address. All proposed and final regulations are published in the Federal Register, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the Federal Register may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly Customs Bulletin described below.

Customs Bulletin

The Customs Bulletin and Decisions ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the Customs Bulletin. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The current edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The current edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

Informed Compliance Publications

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About:...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA



Visit our Internet web site: <http://www.cbp.gov>