

Bureau of Customs and Border Protection

CBP Decisions

RE-ACCREDITATION OF CORE LABORATORIES, INC., AS A COMMERCIAL LABORATORY

[CBP Dec. 07-11]

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

ACTION: Notice of re-accreditation of Core Laboratories, Inc. of Sulfur, Louisiana, as an accredited commercial laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12, Core Laboratories, Inc., 4025 Oak Lane, Sulfur, Louisiana 60665, has been re-accredited to test Petroleum and Petroleum Products entered under Chapters 17 and 29 of the Harmonized Tariff Schedule of the United States (HTSUS) for customs purposes, in accordance with the provisions of 19 CFR 151.12. Anyone wishing to employ this entity to conduct laboratory analysis should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific tests this entity is accredited to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-accreditation of Core Laboratories, Inc., as an accredited laboratory became effective on March 23, 2005. The next triennial inspection date will be scheduled for March 2008.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services,

Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: March 22, 2007

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

[Published in the Federal Register, March 28, 2007 (72 FR 14602)]

**RE-APPROVAL OF THE STRAWN GROUP AS A
COMMERCIAL GAUGER**

[CBP Dec. 07-12]

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

ACTION: Notice of re-approval The Strawn Group of Houston, Texas, as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, The Strawn Group, 3855 Villa Ridge, Houston, Texas 77068, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity for gauger services should request and receive written assurances from the entity that it is approved by the Bureau of Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger services this entity is approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-approval of The Strawn Group as a commercial gauger became effective on January 4, 2005. The next triennial inspection date will be scheduled for January 2008.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services,

Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: March 22, 2007

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

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**RE-ACCREDITATION AND RE-APPROVAL OF AMSPEC
SERVICES AS A COMMERCIAL GAUGER AND
LABORATORY**

[CBP Dec. 07-13]

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

ACTION: Notice of re-approval of Amspec Services of Wilmington, North Carolina, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Amspec Services, 2841 Carolina Beach Road, Suite 3B, Wilmington, North Carolina 28412, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-approval of Amspec Services as a commercial gauger and laboratory became effective on May 26, 2005. The next triennial inspection date will be scheduled for May 2008.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services,

Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: March 22, 2007

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

[Published in the Federal Register, March 28, 2007 (72 FR 14602)]

**RE-ACCREDITATION AND RE-APPROVAL OF INTERTEK
CALEB BRETT AS A COMMERCIAL GAUGER AND
LABORATORY**

[CBP Dec. 07-14]

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

ACTION: Notice of re-approval of Intertek Caleb Brett of Corpus Christi, Texas, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Intertek Caleb Brett, 134 Heinsohn Road, Suite A, Corpus Christi, Texas 78406, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-approval of Intertek Caleb Brett as a commercial gauger and laboratory became effective on February 23, 2005. The next triennial inspection date will be scheduled for February 2008.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services,

Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: March 22, 2007

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

[Published in the Federal Register, March 28, 2007 (72 FR 14603)]

**RE-APPROVAL OF INTERTEK CALEB BRETT AS A
COMMERCIAL GAUGER**

[CBP Dec. 07-15]

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

ACTION: Notice of re-approval Intertek Caleb Brett of Pasadena, Texas, as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, Intertek Caleb Brett, 3741 Red Bluff Road, Pasadena, Texas 77503, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity for gauger services should request and receive written assurances from the entity that it is approved by the Bureau of Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger services this entity is approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-approval of Intertek Caleb Brett as a commercial gauger became effective on February 18, 2005. The next triennial inspection date will be scheduled for February 2009.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services,

Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: March 22, 2007

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

[Published in the Federal Register, March 28, 2007 (72 FR 14603)]



General Notices

USCBP - 2007 - 0030

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Glass Optical Preforms

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

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: The Bureau of Customs and Border Protection (CBP) has received a petition submitted on behalf of a domestic interested party requesting the reclassification under the Harmonized Tariff Schedule of the United States (HTSUS) of glass optical preforms. CBP's current position is that glass optical preforms are classifiable duty-free in subheading 7002.20.1000, HTSUS, as glass rods of fused quartz or other fused silica, unworked. Petitioner maintains that this classification is incorrect because the optical fiber preforms consist of a glass core rod that has been "worked" by the addition of a layer of cladding glass to the core rod. Petitioner asserts that subheading 7020.00.6000, HTSUS, other articles of glass, other, represents the correct classification. The 2007 rate of duty under this provision is 5 percent ad valorem.

DATE: Comments must be received on or before May 29, 2007.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP - 2007 - 0030.

- Mail: Trade and Commercial Regulations Branch, Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this notice of domestic interested party petition concerning the tariff classification of glass optical preforms. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Bureau of Customs and Border Protection, Regulations and Rulings, Trade and Commercial Regulations Branch, 799 9th Street, NW, 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark, Trade and Commercial Regulations Branch, at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Emily M. Simon, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade at (202) 572-8867.

SUPPLEMENTARY INFORMATION:

BACKGROUND

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of Corning Incorporated, Corning, New York, requesting that Customs and Border Protection (CBP) reclassify imported optical glass preforms. In accordance with HQ 967058 and HQ 967059, both dated April 21, 2006, CBP classifies this merchandise duty-free in subheading 7002. 20.1000, Harmonized Tariff Schedule of the United States (HTSUS), as glass rods of fused quartz or other fused silica, unworked. Petitioner maintains that this classification is incorrect because the optical fiber preforms consist of a glass core rod that has been “worked” by the addition of a layer of cladding glass to the core rod. Petitioner asserts that subheading 7020.00.6000, HTSUS, other articles of glass, other, represents the correct classification. The 2007 rate of duty under this provision is 5 percent ad valorem.

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

Optical glass preforms are produced by a two-step process. In the first step, the core layer of the preform is drawn through an annealing furnace, fusing it into a rod by a method called vapor axial deposition. In the second step, the cladding layer of the preform is added by fusing a layer of silica dioxide powder to the outside of the core rod.

Petitioner maintains that CBP's position that core rods are identifiable merely as an intermediate stage in a somewhat continuous process of producing preforms is erroneous. Petitioner contends that core rods exist as a separate and distinct commercial article, are recognized throughout the industry as "rods," and are referred to as such. Petitioner concludes that the addition of a layer of cladding glass to a core rod renders the rod "worked," and results in classification in heading 7020, HTSUS, as other articles of glass.

At GRI 1, the classification of optical glass preforms in heading 7002, HTSUS, results from a finding that they are unworked. CBP has uniformly considered the process of "working" glass to have been performed on an extant article of glass, rather than during the process of creating or manufacturing that article. See HQ 960274, dated October 9, 1997. Therefore, it is CBP's position that the "working" of glass articles contemplates a mechanical or physical alteration of the glass after the glass articles are created. Consequently, the addition to a glass core rod of a layer of cladding glass to complete a glass preform cannot at the same time be considered a "working" of that preform.

As an alternative claim, Petitioner asserts that the glass optical preforms, which it now refers to as optical fiber preforms, have a single and recognizable predetermined use as optical fibers. As such, they qualify as incomplete or unfinished optical fibers under GRI 2(a), HTSUS, having the essential character of complete or finished optical fibers classifiable in subheading 9001.10.0030, HTSUS. Optical fibers and other articles of Chapter 90 are excluded from Chapter 70, pursuant to Chapter 70, Note 1(d), HTSUS. The 2007 rate of duty under this provision is 6.7 percent ad valorem.

Petitioner maintains the preforms possess all of the critical optical properties of the fiber, citing HQ 560660 dated April 9, 1999. HQ 560660 involved an analysis of "character" for purposes of substantial transformation in a marking or origin context. CBP found in that ruling that there was no recognizable change in character based on the drawing of the preform into fiber. Petitioner maintains that finding applies equally in a GRI 2(a) context. HQ 560660 cited HQ 960948¹ dated September 11, 1998, with respect to whether a glass preform was properly classifiable under subheading 9001.10.00, HTSUS, as incomplete or unfinished optical fiber, on the basis of

¹ HQ 960948 was revoked for other reasons by HQ 967058, dated April 21, 2006.

GRI 2(a), HTSUS. Under GRI 2(a), an incomplete or unfinished article will be classified as a complete or finished article provided it has the “essential character” of the complete or finished article. HQ 960948 cited court cases, which looked to the function or use of the article in determining essential character for classification purposes. The ruling stated that the preform is a magnified version of the fiber to be drawn from it and, accordingly, both have the same critical fiber optic attributes. However, CBP noted that the preform does not have the essential physical characteristics (*i.e.*, thinness and flexibility) necessary for practical use as optical fiber. It was further noted that, pursuant to a Harmonized Commodity Description and Coding System Explanatory Note (EN) for GRI 2(a) (*i.e.*, EN GRI Rule 2(a)(II)), the preforms may not be classified as incomplete or unfinished optical fiber (as “blanks”) because they did not have “the approximate shape or outline” of the finished article. Thus, CBP concluded that the glass preform did not have the essential character of a complete or finished optical fiber, and was not an incomplete or unfinished optical fiber classifiable in subheading 9001.10.00, HTSUS.

COMMENTS:

Pursuant to section 175.21(a), CBP regulations (19 CFR §175.21(a)), before making a determination on this matter, CBP invites written comments on the petition from interested parties.

The domestic interested party petition concerning the tariff classification of optical glass preforms, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. § 552, and Section 103.11(b), CBP regulations (19 CFR §103.11(b)), between the hours of 9:00 a.m. and 4:30 p.m. on regular business days at the Bureau of Customs and Border Protection, Office of Regulations and Rulings, Trade and Commercial Regulations Branch, 799 9th Street, N.W., 5th Floor, Washington, D.C. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

AUTHORITY:

This notice is published in accordance with section 175.21(a), CBP Regulations (19 CFR § 175.21(a)) and 19 U.S.C. § 1516.

Dated: March 23, 2007

W. RALPH BASHAM,
Commissioner,
Bureau of Customs and Border Protection.

[Published in the Federal Register, March 28, 2007 (72 FR 14603)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.
Washington, DC, March 28, 2007

The following documents of the Bureau of Customs and Border Protection (“CBP”), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

SANDRA L. BELL,
*Executive Director,
Regulations and Rulings Office of Trade.*

GENERAL NOTICE

19 CFR PART 177

PROPOSED MODIFICATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF CERTAIN MESH DEBRIS NETTING

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

ACTION: Notice of proposed modification of a tariff classification ruling letter and revocation of treatment relating to the classification of certain mesh debris netting.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (“CBP”) intends to modify one ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (“HTSUS”), of certain mesh debris netting. Similarly, CBP proposes to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before May 11, 2007.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue, N.W., Mint Annex, Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted com-

ments should be made in advance by calling Joseph Clark of the Trade and Commercial Regulations Branch at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Brian Barulich, Tariff Classification and Marking Branch, at (202) 572-8883.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify one ruling letter, specifically Headquarters Ruling Letter ("HQ") 968200, dated August 11, 2006 (Attachment A), relating to the tariff classification of certain mesh debris netting.

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

In the "EFFECT ON OTHER RULINGS" section of HQ 968200, CBP stated:

NY F82010, dated January 31, 2000; **NY F80765**, dated December 17, 1999; **NY C87894**, dated May 21, 1998 and; **NY C87245**, dated May 1, 1998, are hereby affirmed.

During a recent review of HQ 968200, CBP recognized that this statement was in error. The two subheadings under which the merchandise in the rulings cited above were classified were deleted from the HTSUS in 2002 to reflect modifications made to the Harmonized Commodity Description and Coding System. Consequently, NY F82010, NY F80765, NY C87894, NY C87245, were revoked by operation of law on the date these two subheadings were deleted from the HTSUSA. Accordingly, it was impossible to affirm NY F82010, NY F80765, NY C87894, NY C87245 on August 11, 2006, because these four rulings had already been revoked by operation of law.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify HQ 968200 to delete the "EFFECT ON OTHER RULINGS" section cited above as set forth in HQ H003043 (Attachment B). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions, if any.

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

DATED: March 21, 2007

GAIL A. HAMILL for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 968200
August 11, 2006
CLA-2 RR:CTF:TCM 968200 KSH CATEGORY: Classification
TARIFF NO.: 6005.33.0010

FRANK J. DESIDERIO, ESQ.
GRUNFELD, DESIDERIO, LEBOWITZ,
SILVERMAN & KLESTADT LLP
399 Park Avenue 25th Floor
New York, NY 10022-4877

RE: Request for reconsideration of NY F82010; NY F80765; NY C87894 and; NY C87245; mesh debris netting.

DEAR MR. DESIDERIO:

This letter is in response to your request of April 14, 2006 and supplemental request of April 21, 2006, on behalf of your client Strong Man Building

Products Corp., for reconsideration of New York Ruling Letters (NY) F82010, dated January 31, 2000; NY F80765, dated December 17, 1999; NY C87894, dated May 21, 1998 and; NY C87245, dated May 1, 1998, as it pertains to the classification of mesh debris netting products under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA).

Consideration was given to the July 13, 2006 telephone conference held between your counsel and members of my staff as well as your additional submission dated July 18, 2006, in reaching our decision herein.

FACTS:

The merchandise at issue is mesh debris netting products used at construction sites to contain debris. Four of the products are identified as model numbers SBN-14-60, SBN-22, SBN-427 and SBN 324. A representative sample was sent for consideration in conjunction with the request for reconsideration. The models are materially similar, differing principally by weight.

The products are manufactured from either high density polyethylene or 100% polyester that has been extruded into thread. The thread is cooled in water, stretched over rollers and wound onto spools. The spools are mounted onto a knitting machine. The thread is fed into the knitting machine which knits the pattern that includes button holes and self finishing. The product has stable, regularly spaced openings in the fabric. Textile strips are inserted along the edge 1/2 inch from the edge, reinforcing the area where the buttonholes have been formed. Four rows of contrasting color yarns are stitched 1 1/2 inches from each edge. The product is wound onto a master roll measuring a width of either 8 feet six inches or 8 feet. Under one scenario, the product is cut to the desired length and the finished product is wound onto a core and packaged in clear plastic bags. Under a different scenario the product is woven to a specified length of 150 feet or 300 feet. The finished product is wound onto a core and packaged in a clear plastic bag.

To install the products, the roll is unwound from the top of a scaffolding. The fabric is affixed to the scaffolding by running plastic ties through the buttonholes and around the scaffolding poles.

ISSUE:

Whether the mesh debris netting products are classified in heading 6005, HTSUSA, as warp knit fabrics or in heading 6307, HTSUSA, as made up articles.

LAW AND ANALYSIS:

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

The Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation at the international level. While neither legally binding nor dispositive, the EN provide a commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. It is Customs and Border Protection's (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

You argue that the products are classified in heading 6307, HTSUSA, because they are “made up textile articles” as defined by Note 7 to Section XI, HTSUSA. Section XI, Note 7 of the HTSUSA, defines the term “made up” for the purposes of Section XI, as follows:

For the purposes of this section, the expression “made up” means:

(a) Cut otherwise than into squares or rectangles; Produced in the finished state, ready for use (or merely needing separation by cutting dividing threads) without sewing or other working (for example, certain dusters, towels, tablecloths, scarf squares, blankets); Hemmed or with rolled edges, or with a knotted fringe at any of the edges, but excluding fabrics the cut edges of which have been prevented from unravelling by whipping or other simple means; Cut to size and having undergone a process of drawn thread work; Assembled by sewing, gumming or otherwise (other than piece goods consisting of two or more lengths of identical material joined end to end and piece goods composed of two or more textiles assembled in layers, whether or not padded); or Knitted or crocheted to shape, whether presented as separate items or in the form of a number of items in the length.

You assert that the mesh debris netting products meet the definition of “made up” as set forth in Note 7(b), as the products are produced in the finished state and are ready for use in their condition as imported.

The ENs to Section XI, Note 7(b), are set forth in the General Notes, Section XI, (II) Chapters 56 to 63, and provide in relevant part as follows:

Made up articles.

Under Note 7 to this Section, the expression “made up” in Chapters 56 to 63 means:

* * *
Produced in the finished state, ready for use (or merely needing separation by cutting dividing threads) without sewing or other working. Goods of this kind include products knitted or crocheted directly to shape and certain dusters, towels, table cloths, scarf squares, blankets, etc., with threads along the warp left unwoven or the weft edges cut to form a fringe. Such articles may have been woven separately on the loom, but may also have been simply cut from lengths of fabric which have bands of unwoven threads (generally warp threads) at regular intervals. These lengths of fabric, from which ready-made articles of the types described above may be obtained by simply cutting the dividing threads, are also considered as “made up” articles.

However, rectangular (including square) articles simply cut out from larger pieces without other working and not incorporating fringes formed by cutting dividing threads are not regarded as “produced in the finished state” within the meaning of this Note. The fact that these articles may be presented folded or put up in packings (e.g., for retail sale) does not affect their classification.

You cite to HQ 083587, dated May 2, 1989, regarding the classification of liners used in tire manufacturing, as support for the claim that the subject merchandise qualifies as made-up. In HQ 083587, polyethylene liners in the size and shape of finished products as they came off the loom, but requiring two manufacturing processes, heat setting and heat sealing the edges to prevent fraying, were classified as made up articles. HQ 083587 is distinguishable from the subject merchandise. The liners which were the subject of HQ 083587 came off the loom in the size ready for use in the condition as imported and were never cut. Although you state that the subject merchandise is “ready to use in its condition upon importation,” under the first scenario,

you also state that the subject mesh netting product must be cut from the master roll to the desired length. Under the second scenario, the mesh netting products will come off the loom in a specified length of 150 feet or 300 feet, however, it is still not ready to use in its condition as imported as the purchaser of the products will most often need to cut the mesh netting product to a length, other than 150 feet or 300 feet, needed for the job. As such, they are not produced in the finished state.

HOLDING:

By application of GRI 1, the mesh netting products are classified in heading 6005, HTSUSA. They are provided for in subheading 6005.33.0010, HTSUSA, which provides for "Warp knit fabrics (including those made on galloon knitting machines), other than those of headings 6001 to 6004: Of synthetic fibers: Of yarns of different colors, Open work fabrics." The general column one rate of duty is 10% ad valorem.

Merchandise classified in subheading 6005.33.0010, HTSUSA, falls within textile category 229. Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent negotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas," which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at <http://otexa.ita.doc.gov>.

EFFECT ON OTHER RULINGS:

NY F82010, dated January 31, 2000; NY F80765, dated December 17, 1999; NY C87894, dated May 21, 1998 and; NY C87245, dated May 1, 1998, are hereby affirmed.

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

[ATTACHMENT B]

HQ H003043
CLA-2 RR:CTF:TCM H003043 BtB
CATEGORY: Classification
TARIFF NO.: 6005.33.0010

FRANK J. DESIDERIO, ESQ.
JOSEPH M. SPRARAGEN, ESQ.
GRUNFELD, DESIDERIO, LEBOWITZ, SILVERMAN & KLESTADT LLP
399 Park Avenue, 25th Floor
New York, NY 10022-4877

Re: Reconsideration of HQ 968200; classification of mesh debris netting

DEAR MM. DESIDERIO and SPRARAGEN:

This is in reply to your letter dated November 1, 2006, on behalf of Strongman Building Products Corp. ("Strongman") to the Commercial Rulings Division of Regulations and Rulings, requesting reconsideration of Headquarters Ruling Letter ("HQ") 968200, dated August 11, 2006, on the classification, under the Harmonized Tariff Schedule of the United States Annotated ("HTSUSA"), of several styles of mesh debris netting.

HQ 968200 was a reconsideration of four previously issued rulings: New York Ruling Letter ("NY") C87245 issued May 1, 1998, NY C87894, issued May 21, 1998, NY F80765, issued December 17, 1999, and NY F82010, issued January 31, 2000.

The one type of mesh debris netting classified in NY C87245 was not specifically identified with a style or model number. The one type of mesh debris netting classified in NY C87894 was also not specifically identified with a style or model number. The single style of mesh debris netting classified in NY F80765 was specifically identified as "SBN 324." The three styles of mesh debris netting classified in NY F82010 were specifically identified as "SBN-14-60," "SBN-22" and "SBF-427."

In support of your request for reconsideration, you submitted samples of SBN 324 and SBN-22. You also submitted samples of these styles to which a hem has been added to an edge of the netting. You identified these samples as "SBN324 W/HEM TOP CORNER" and "SBN22 W/HEM BOT. CORNER." Additionally, we conducted an oral discussion of the issues involved in this matter on February 12, 2007.

Pursuant to your reconsideration request, we have reviewed HQ 968200. This ruling, HQ H003043, affirms HQ 968200, except for the "Effect On Other Rulings" section, which it modifies for the reason set forth below.

FACTS:

In HQ 968200, the four specifically identified styles of mesh debris netting (from NY F80765 and NY F82010) mentioned above were described as follows:

The merchandise at issue is mesh debris netting products used at construction sites to contain debris. Four of the products are identified as model numbers SBN-14-60, SBN-22, SBN-427 and SBN 324. A representative sample was sent for consideration in conjunction with the request for reconsideration. The models are materially similar, differing principally by weight

The products are manufactured from either high density polyethylene or 100% polyester that has been extruded into thread. The thread is

cooled in water, stretched over rollers and wound onto spools. The spools are mounted onto a knitting machine. The thread is fed into the knitting machine which knits the pattern that includes button holes and self finishing. The product has stable, regularly spaced openings in the fabric. Textile strips are inserted along the edge ½ inch from the edge, reinforcing the area where the buttonholes have been formed. Four rows of contrasting color yarns are stitched 1 ½ inches from each edge. The product is wound onto a master roll measuring a width of either 8 feet six inches or 8 feet. Under one scenario, the product is cut to the desired length and the finished product is wound onto a core and packaged in clear plastic bags. Under a different scenario the product is woven to a specified length of 150 feet or 300 feet. The finished product is wound onto a core and packaged in a clear plastic bag.

To install the products, the roll is unwound from the top of a scaffolding. The fabric is affixed to the scaffolding by running plastic ties through the buttonholes and around the scaffolding poles.

While not specifically stated in the above quotation, SBN-14-60, SBN-22, SBN-427 and SBN 324 are of warp knit construction. Meanwhile, the fabric in NY C87245 was described as:

The fabric is stated to be made of 100 percent polyester material. It is of warp knit construction. Its intended use is in the construction industry. It will be used to prevent any debris from falling to the ground when persons are working from a scaffold.

Finally, the fabric in NY C87894 was described as:

The fabric is stated to be made of 100 percent polyethylene material. It is of warp knit construction. Its intended use is in the construction industry. It will be used to prevent any debris from falling to the ground when persons are working from a scaffold.

Because differences between SBN-14-60, SBN-22, SBN-427, SBN 324, and the fabric in NY C87245 and NY C87894 are not material for classification purposes, the styles are hereinafter collectively referred to as “the mesh debris netting at issue” or “the products at issue.”

In HQ 968200, CBP classified the mesh debris netting at issue in sub-heading 6005.33.0010, HTSUSA, which provides for “Warp knit fabrics (including those made on galloon knitting machines), other than those of headings 6001 to 6004: Of synthetic fibers: Of yarns of different colors, Open work fabrics.”

ISSUE:

What is the classification of the mesh debris netting at issue?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (“GRI”). GRI 1 provides, in part, that classification decisions are to be “determined according to the terms of the headings and any relative section or chapter notes.” If the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied, in order.

The Harmonized Commodity Description and Coding System Explanatory Notes (“EN”) constitute the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subhead-

ings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. *See* T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

A product's classification is determined by first looking to the headings and section or chapter notes. *See Orlando Food Corp. v. United States*, 140 F.3d 1437 (Fed. Cir. 1998). Only after determining that a product is classifiable under the heading should one look to the subheadings to find the correct classification for the merchandise." *Id.*

Heading 6307, HTSUSA, provides for: "Other made up articles, including dress patterns." In your request for reconsideration of NY C87245, NY C87894, NY F80765, and NY F82010 and in your request for reconsideration of HQ 968200, you asserted that the products at issue are classified in heading 6307, HTSUSA, because they are "made up" textile articles as defined by Note 7 to Section XI, HTSUSA.

Section XI, Note 7 of the HTSUSA, defines the term "made up" for the purposes of Section XI, as follows:

For the purposes of this section, the expression "made up" means:

- (a) Cut otherwise than into squares or rectangles;
- (b) Produced in the finished state, ready for use (or merely needing separation by cutting dividing threads) without sewing or other working (for example, certain dusters, towels, tablecloths, scarf squares, blankets);
- (c) Hemmed or with rolled edges, or with a knotted fringe at any of the edges, but excluding fabrics the cut edges of which have been prevented from unravelling by whipping or by other simple means;
- (d) Cut to size and having undergone a process of drawn thread work;
- (e) Assembled by sewing, gumming or otherwise (other than piece goods consisting of two or more lengths of identical material joined end to end and piece goods composed of two or more textiles assembled in layers, whether or not padded); or
- (f) Knitted or crocheted to shape, whether presented as separate items or in the form of a number of items in the length.

You claim that the products at issue are "made up" because they meet the terms of Section XI, Note 7(b) and 7(c).

The ENs to Section XI, Note 7(b) and 7(c) are set forth in the General Notes, Section XI, (II) Chapters 56 to 63, and offer the following guidance:

Made up articles.

Under Note 7 to this Section, the expression "made up" in Chapters 56 to 63 means:

- * * *
- (2) **Produced in the finished state, ready for use** (or merely needing separation by cutting dividing threads) without sewing or other working. Goods of this kind include products knitted or crocheted directly to shape and certain dusters, towels, table cloths, scarf squares, blankets, etc., with threads along the warp left unwoven or the weft edges cut to form a fringe. Such articles may have been woven separately on the loom, but may also have been simply cut from lengths of fabric which have bands of unwoven threads (generally

warp threads) at regular intervals. These lengths of fabric, from which ready-made articles of the types described above may be obtained by simply cutting the dividing threads, are also considered as “made up” articles.

However, rectangular (including square) articles simply cut out from larger pieces without other working and not incorporating fringes formed by cutting dividing threads are not regarded as “produced in the finished state” within the meaning of this Note. The fact that these articles may be presented folded or put up in packings (e.g., for retail sale) does not affect their classification.

- (3) **Hemmed or with rolled edges or with a knotted fringe** (whether or not incorporating added threads) at any of the edges (e.g., handkerchiefs with rolled edges and table covers with knotted fringes), but **excluding** fabrics the cut edges of which have been prevented from unravelling by whipping or by other simple means.

* * * * *

In regard to your claim that the products at issue meet the terms of Section XI, Note 7(b), you emphasized in your November 1, 2006 letter and in our oral conference that the products do not require and, in most cases, are not cut by the ultimate purchaser prior to use. In your letter, you stated: “[i]n the event that the end user is faced with excess product after the roll of netting is unfurled from the top of a building, he can, and does, simply fold over the excess product.”

Accepting your representation that the products at issue do not require cutting for use, the articles nevertheless do not meet the terms of Section XI, Note 7(b). In your request for reconsideration of NY C87245, NY C87894, NY F80765, and NY F82010, you described the manufacturing steps for the products at issue:

The manufacturing steps for the netting products are as follows: 1) high density polyethylene is extruded into thread; 2) the thread is cooled in water, stretched over rollers, and wound onto spools; 3) the spools are mounted onto a knitting machine; 4) the thread is fed into the knitting machine which knits the pattern, including button holes and hems; 5) the resultant product is wound onto a master roll from which the desired length, e.g., 150, 300 feet, etc. is cut; and the finished product is wound onto a core and packaged in clear plastic bags.¹

As emphasized in the ENs quoted above, articles simply cut out from larger pieces without other working and not incorporating fringes formed by cutting dividing threads are not regarded as “produced in the finished state” within the meaning of the note. See *generally* HQ 089058 (July 25, 1991), HQ 089203 (July 19, 1991), HQ 089592 (September 20, 1991), HQ 950786 (January 28, 1992), HQ 955457 (June 8, 1994), HQ 955458 (June 8, 1994), HQ 966293 (March 3, 2004), HQ 959184 (November 13, 1996), and HQ 967601 (March 22, 2006). In the case at hand, as you described, the products at issue are simply cut from larger pieces of fabric. They, therefore, are not

¹ While you set forth the manufacturing steps above for all the styles of mesh debris netting at issue, SBN 324 and the fabric in NY C87245 are polyester, not polyethylene. However, it is our understanding that substantially similar manufacturing steps are undertaken in regard to SBN 324 and the fabric in NY C87245 although they are of polyester construction.

regarded as “produced in the finished state.” The buttonholing of the fabric also does not constitute “other working” because the buttonholes are formed in the knitting process. Additionally, the winding of the articles onto a core and packaging them in plastic bags does not affect its classification.

In regard to your claim that the products at issue meet the terms of Section XI, Note 7(c), you emphasized in your November 1, 2006 letter and in our oral conference that the tighter knit at the fabric edges is not for the purpose of preventing unraveling, but to reinforce the button holes running down the sides of the mesh debris netting at issue. In your letter, you also stated: “[h]ere, the design of the netting itself prevents unraveling and serves to maintain the strength of the product; no selvage is required or present. The products are essentially self-hemmed and, as such, are made up articles pursuant to Note 7(c) to Section XI.”

In order for an article to be “made up” under Note 7(c) to Section XI, HTSUSA, it must contain a hem that is necessary for its intended use. *See e.g.*, HQ 083013 (March 20, 1989), HQ 952650 (June 8, 1993), and HQ 959132 (September 23, 1996). We generally recognize a traditional hem to be an edge of fabric that has been folded, folded up again, and then sewn down.² We have recognized that, in addition to traditional hems, there are several types of hems. *See e.g.*, HQ 952650 (recognizing a “Continental hem”) and HQ 085549 (November 21, 1989, recognizing a “Cornelli hem” (also known as a “replique hem”).

The mesh debris netting at issue is not hemmed. There is neither a traditional, nor any other kind, of hem at any of its edges. Although the design or construction of the products at issue (i.e., the polyester or polyethylene thread and the warp knit) may prevent unraveling of the products, this design or construction does not constitute a hem. As there is no hem on the products at issue, it is impossible to discuss whether such hem makes the products suitable for their intended use.

While you did not refer to the ruling in your previous submissions or in our oral conference, in NY K84512, issued March 30, 2004, CBP classified bird control nets for vineyards. These nets were classified in heading 6307, HTSUSA, as “made up” articles. While these bird nets may sound substantially similar to the mesh debris netting at issue, they are not. The bird nets of NY K84512 have several distinct features that differentiate them from the products at issue, including several rows of double ply mesh around their edges and brightly colored pace markers at distance intervals.

In light of the above, we find that the mesh debris netting at issue is not “made up” pursuant to Section XI, Note 7(b) or 7(c). The products are not “produced in the finished state, ready for use” or “hemmed” under the respective notes. Rather, in their condition as imported, the products at issue are simply fabric in the piece imported on rolls. By application of GRI 1, the mesh netting products are classified in heading 6005, HTSUSA, which provides for “Warp knit fabrics (including those made on galloon knitting machines), other than those of headings 6001 to 6004.” They are specifically provided for in subheading 6005.33.0010, HTSUSA, which provides for “Warp knit fabrics (including those made on galloon knitting machines), other than those of headings 6001 to 6004: Of synthetic fibers: Of yarns of different colors, Open work fabrics.”

² *See generally* www.wikipedia.com.

As stated above, you submitted samples of SBN-324 and SBN-22 to which a hem has been added to an edge of the netting (identified as "SBN324 W/HEM TOP CORNER" and "SBN22 W/HEM BOT. CORNER"). As these samples are not identical to the merchandise that was classified in HQ 968200, we could not consider them in this reconsideration of HQ 968200. However, you are encouraged to request ruling letters on the styles having this construction.

While the analysis of HQ 968200 is correct, the "Effect On Other Rulings" section of that ruling erroneously stated:

NY F82010, dated January 31, 2000; **NY F80765**, dated December 17, 1999; **NY C87894**, dated May 21, 1998 and; **NY C87245**, dated May 1, 1998, are hereby affirmed.

This statement was in error because the subheadings in which the merchandise had been classified in the above rulings (subheading 6002.43.0080, HTSUSA, and subheading 6002.43.0010, HTSUSA) were deleted from the HTSUSA in 2002 to update the HTSUS to reflect modifications made to the Harmonized Commodity Description and Coding System. Consequently, NY F82010, NY F80765, NY C87894, NY C87245, were revoked by operation of law on the date these two subheadings were deleted from the HTSUSA. Accordingly, it was impossible to affirm NY F82010, NY F80765, NY C87894, NY C87245 on August 11, 2006, because these four rulings had already been revoked by operation of law.

HOLDING:

By application of GRI 1, the mesh debris netting at issue (styles SBN-14-60, SBN-22, SBN-427, SBN 324, and the fabric in NY C87245 and NY C87894) is classified in heading 6005, HTSUSA. It is provided for by subheading 6005.33.0010, HTSUSA, which provides for "Warp knit fabrics (including those made on galloon knitting machines), other than those of headings 6001 to 6004: Of synthetic fibers: Of yarns of different colors, Open work fabrics." The applicable column one, general duty rate under the 2007 HTSUSA is 10% *ad valorem*. The products at issue fall within textile category designation 229.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUSA and the accompanying duty rates are provided on the world wide web at www.usitc.gov.

Quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization ("WTO") member countries. The textile category number above applies to merchandise produced in non-WTO member countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

EFFECT ON OTHER RULINGS:

HQ 968200 is affirmed, except for the "Effect On Other Rulings" section, which is modified as set forth above.

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

GENERAL NOTICE

19 CFR PART 177

**PROPOSED MODIFICATION OF A RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
CLASSIFICATION OF CERTAIN MIRRORED GLASS
DECORATIVE APPLIQUÉS**

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

ACTION: Notice of proposed modification of a ruling letter and revocation of treatment relating to the classification of certain mirrored glass decorative appliquéés, without backing.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to modify a ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of mirrored glass decorative appliquéés, without backing. Similarly, CBP proposes to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before May 11, 2007.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue, N.W., Mint Annex, Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark, Trade and Commercial Regulations Branch, at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock,
Tariff Classification and Marking Branch, at (202) 572-8828.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify a ruling letter relating to the tariff classification of certain mirrored glass decorative appliqués, without backing. Although in this notice CBP is specifically referring to the modification of Headquarters Ruling Letter (HQ) 958837, dated June 18, 1996 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. In internal advice memorandum HQ 968221, dated July 31, 2006, CBP noted that HQ 087015, dated October 3, 1990, may be inconsistent with CBP's current view of the classification of mirrored glass and may be subject to modification or revocation. However, upon further examination, we find that the article in HQ 087015 is not described with sufficient particularity in that ruling or in the file to determine whether its classification is inconsistent with CBP's current views. Therefore, we are taking no action with regard to HQ 087015 at this time. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the rulings identified above. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling

letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

In HQ 958837, CBP classified certain mirrored glass decorative appliquéés, without backing, in subheading 7006.00.40, HTSUSA, which provides for, *inter alia*: "Glass of heading 7003, 7004 or 7005, bent, edge-worked, engraved, drilled enameled or otherwise worked, but not framed or fitted with other materials: Other: Other." Based on our recent review of HQ 958837, we have determined that the tariff classification set forth for the mirrored glass decorative appliquéés, without backing, is incorrect. It is now CBP's view that the proper tariff classification is subheading 7013.99, HTSUSA, which provides for, *inter alia*: "Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than of heading 7010 or 7018): Other glassware: Other."

Pursuant to 19 U.S.C. §1625(c)(1), CBP intends to modify HQ 958837 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper tariff classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letter (HQ) W968359 (Attachment B). Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions that is contrary to the determination set forth in this notice. Before taking this action, consideration will be given to any written comments timely received.

DATED: March 26, 2007

GAIL A. HAMILL for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 958837
June 18, 1996
CLA-2 RR:TC:MM 958837 MMC
CATEGORY: Classification
TARIFF NO.: 7006.00.40; 7013.99.70

PORT DIRECTOR
U.S. CUSTOMS SERVICE
555 Battery Street
San Francisco, CA 94111

RE: Protest 2809-95-101638; mirrored glass decorative appliques; ENs 44.14, 70.06, 70.09; HRLs 088088, 086405

DEAR PORT DIRECTOR:

The following is our response to Protest 2809-95-101638 concerning your actions in classifying and assessing duty on mirrored glass decorative appliques, under the Harmonized Tariff Schedule of the United States (HTSUS). Samples were submitted for our review.

FACTS:

The subject articles consist of mirrored glass decorative appliques of various shapes. They are between 4 and 6' long and 2 and 4' wide. All are backed with a thin metallic coating. Some are additionally backed with wood, cut to shape. The mirrored glass portion is decorated over the entire surface and has low reflective properties. These articles are designed for mounting on the frames of standard mirrors of domestic origin to provide an ornate finished product. Protestant entered the mirrored glass decorative appliques under heading 7004, HTSUS. The entries were liquidated on October 6, 1995, under heading 7013, HTSUS. A protest was timely filed on November 29, 1995. The headings under consideration are as follows:

4414 Wooden frames for paintings, photographs, mirrors or similar objects.

7004 Drawn glass and blown glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked 7006 Glass of heading 7003, 7004 or 7005, bent, edge worked, engraved, drilled, enameled or otherwise worked, but not framed or fitted with other materials

7009 Glass mirrors, whether or not framed, including rear-view mirrors
7013 Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading 7010 or 7018)

ISSUE:

Are the mirrored glass decorative appliques classifiable as sheets of glass, worked sheets of glass, mirrors or decorative glassware?

LAW AND ANALYSIS:

The classification of merchandise under the HTSUS is governed by the General Rules of Interpretation (GRI's). GRI 1, HTSUS, states, in pertinent part, that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes.

Protestant entered the articles under heading 7004, HTSUS, which provides for unworked sheets of drawn glass and blown glass. However, in the

November 29, 1995, submission, protestant acknowledges that heading 7004, HTSUS, does not describe the subject article and withdraws claim to that classification. Instead, plaintiff claims that all of the appliques are classifiable as edge worked glass of heading 7006, HTSUS, or in the alternative, that the appliques without a backing are classifiable under heading 7006, HTSUS, and the wooden backed appliques are classifiable under heading 7009, HTSUS, as mirrors.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. The ENs, although not dispositive nor legally binding, provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80, 54 Fed. Reg. 35127, 35128, (August 23, 1989). EN 70.06, p. 930, states:

This heading covers glass of the types referred to in headings 70.03 to 70.05 which has been subjected to one or more of the processes mentioned below. The heading does not, however, include...glass in the form of mirrors (heading 70.09).

The heading includes:

(A) Bent or curved glass such as the special glass (e.g., for display windows) which is obtained by hot-bending or hot-curving (in a suitable furnace and over moulds) flat glass sheets, with the exception, however, of the bent or curved glass of heading 70.15.

(B) Glass with worked edges (ground, polished, rounded, notched, chamfered, bevelled, profiled, etc.), thus acquiring the character of articles such as slabs for table-tops, for balances or other weighing machinery, for observation slits and the like, for signs of various kinds, fingerplates, glasses for photograph frames, etc., window panes, glass fronts for furniture, etc.

(C) Glass perforated or fluted as a subsequent operation, etc.

(D) Glass which has been surface worked after manufacture, for example, glass subjected to obscuring processes (sand-blasted glass, or glass rendered dull by treatment with emery or acid); frosted glass; glass engraved or etched by any process; enameled glass (i.e., glass decorated with enamel or vitrifiable colours); glass bearing designs, decorations, various motifs, etc., produced by any process (hand painting, printing, window transparencies, etc.) and all other glass decorated in any other way, except glass hand painted so as to constitute a painting of heading 97.01.

This heading covers not only flat glass in the form of semi-finished products (e.g., sheets without any particular purpose), but also articles of flat glass designed for a specific purpose, subject to their being neither framed, backed, nor fitted with material other than glass. The heading thus includes, *inter alia*, fingerplates (for doors or switches) made entirely of bevelled or perforated glass and signplates, even when bevelled, coloured or bearing designs or other decorations. [*italics added*]

On the other hand, glass sheets set in wood or in base metal, designed for framing photographs, pictures, etc., fall in heading 44.14 or 83.06 respectively; decorative glass mirrors, whether or not framed, with printed illustrations on one surface, fall in heading 70.09 or 70.13 . . .

The mirrored glass decorative appliques with wooden backing are specifically excluded from this heading. The mirrored glass decorative appliques without a backing have surfaces which have been worked after manufacture. Furthermore, they are articles which will be used to decorate the edges

of mirrors. Therefore, we find that the mirrored glass decorative appliques without a backing are described by heading 7006, HTSUS, specifically sub-heading 7006.00.40, HTSUS, which provides for glass of heading 7003, 7004 or 7005, bent, edge worked, engraved, drilled, enameled or otherwise worked, but not framed or fitted with other materials: other:other. EN 70.06 suggests that glass sheets set in wood are classifiable under heading 4414, HTSUS. EN 44.14, p. 634, states:

This heading covers wooden frames of all shapes and dimensions, whether cut in one piece from a solid block of wood or built up from beadings or mouldings. The frames of the heading may also be of wood marquetry or in-laid wood.

Frames remain in this heading if fitted with backs, supports and plain glass . . . [emphasis added] The subject articles merely have a backing of wood and are not framed with wood, therefore, they are not classifiable under heading 4414, HTSUS.

Protestant suggests that the wooden backed mirrored glass decorative appliques are classifiable as mirrors. We disagree. EN 70.09, p. 933, states, in pertinent part, that:

. . . This heading covers mirrors in sheets, whether or not further worked. It also includes shaped mirrors of any size, for example, mirrors for furniture, for interior decoration, for railway carriages, etc.; toilet mirrors (including hand or hanging mirrors); pocket mirrors (whether or not in a protective case). The heading further includes magnifying or reducing mirrors and rear-view mirrors (e.g., for vehicles).

All these mirrors may be backed (with paperboard, fabric, etc.), or framed (with metal, wood, plastics, etc.), and the frame itself may be trimmed with other materials (fabric, shells, mother of pearl, tortoise-shell, etc.). Mirrors designed for placing on the floor or ground (for example, cheval-glasses or swing-mirrors of the type used in tailors' fitting rooms or in footwear shops) also remain in this heading in accordance with Note 1 (b) to Chapter 94.

This heading also covers mirrors, whether or not framed, bearing printed illustrations on one surface, provided they retain the essential character of mirrors. However, once the printing is such as to preclude use as a mirror, these goods are classifiable in heading 70.13 as decorative articles of glass . . .

In Headquarters Ruling Letter (HRL) 086405 dated April 16, 1990, we determined that the essential character of a mirror is to provide a reflection so one may check their appearance. In addition, in HRL 088088 dated October 9, 1991, we stated that a "mirror" is a polished or smooth substance or surface that forms images by reflection. Protestant indicates that the articles are used to decorate larger mirrors and the reflective capacity of the subject articles is far less than that intended for mirrors. Our examination of the samples indicates that the wooden backed mirror glass decorative appliques bear surface illustrations which do not accurately reflect one's appearance. All of this information indicates that the subject articles do not retain the essential character of a mirror. Therefore, they are precluded from classification under heading 7009, HTSUS, and are classifiable under heading 7013, HTSUS, specifically subheading 7013.99.70, HTSUS, as other decorative glass articles.

HOLDING:

The mirrored glass decorative appliques without backing are classifiable under subheading 7006.00.40, HTSUS, with a column one duty rate of 4.9%

ad valorem. The wooden backed mirrored glass decorative appliques are classifiable under subheading 7013.99.70, HTSUS, with a column one duty rate of 7.2% ad valorem. Therefore, you should deny the protest, except to the extent reclassification of the merchandise as indicated above results in a net duty reduction and partial allowance.

In accordance with section 3A(11)(b) of Customs Directive 099 3550-065, dated August 4, 1993, Subject: Revised Protest Directive, this decision should be mailed by your office to the protestant no later than 60 days from the date of this letter. Any reliquidation of the entry in accordance with this decision must be accomplished prior to the mailing of the decision. Sixty days from the date of this decision, the Office of Regulations and Rulings will take steps to make the decision available to Customs personnel via the Customs Rulings Module in ACS and to the public via the Diskette Subscription Service, Freedom of Information Act and other public access channels.

JOHN DURANT,
Director,
Tariff Classification Appeals Division.

[ATTACHMENT B]

HQ 968359
CLA-2 RR:CTF:TCM 968359 HkP
CATEGORY: Classification
TARIFF NO.: 7013.99

PORT DIRECTOR
PORT OF SAN FRANCISCO
U.S. CUSTOMS AND BORDER PROTECTION
555 Battery Street
San Francisco, CA 94111

RE: Modification of HQ 958837; mirrored glass decorative appliques

DEAR PORT DIRECTOR:

This is in reference to Headquarters Ruling Letter ("HQ") 958837, dated June 18, 1996, in which the tariff classification of certain mirrored glass decorative appliques, with and without backing, was determined under the Harmonized Tariff Schedule of the United States ("HTSUS"). We have re-considered HQ 958837 and have determined the tariff classification of the mirrored glass decorative appliques without backing is not correct. The tariff classification of the mirrored glass appliques with backing is not in issue.

As an initial matter we note that under San Francisco Newspaper Printing Co. v. United States, 9 CIT 517, 620 F. Supp. 738 (1985), the decision on the merchandise which was the subject of Protest 5201-00-100573 was final on both the protestant and the U.S. Customs Service (now, U.S. Customs and Border Protection ("CBP")). Therefore, while we may review the law and analysis of HQ 958837, any decision taken herein would not impact the entries subject to that ruling.

FACTS:

HQ 958837 described the articles under consideration as follows:

The subject articles consist of mirrored glass decorative appliques of various shapes. They are between 4 and 6" long and 2 and 4" wide. All

are backed with a thin metallic coating. Some are additionally backed with wood, cut to shape. The mirrored glass portion is decorated over the entire surface and has low reflective properties. These articles are designed for mounting on the frames of standard mirrors of domestic origin to provide an ornate finished product.

Based on this information, this office classified the subject articles in heading 7006, HTSUS, which provides for worked glass of heading 7003, 7004, or 7005, but not framed or fitted with other materials, after concluding that the appliquéés were specifically excluded from heading 7009, HTSUS, because they had surfaces that were worked after manufacture and were articles that would be used to decorate the edges of mirrors.

For the reasons below, it is now our position that the mirrored glass decorative appliquéés are provided for in heading 7013, HTSUS, as glassware of a kind used for indoor decoration.

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration are as follows:

- 7006.00 Glass of heading 7003, 7004 or 7005, bent, edge-worked, engraved, drilled, enameled or otherwise worked, but not framed or fitted with other materials:
 * * *
- Other:
 * * *
- 7006.00.40 Other
- 7006.00.4010 Having an absorbent or reflecting layer
- 7009 Glass mirrors, whether or not framed, including rear-view mirrors:
 * * *
- Other:
 7009.91 Unframed:
 7009.91.1000 Not over 929 cm² in reflecting area
- 7013 Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading 7010 or 7018):
 Other glassware:
 7013.99 Other:

Legal Note 2 to Chapter 70, HTSUS, provides, in pertinent part:

For the purposes of heading 7003, 7004 and 7005:

* * *

(c) The expression “absorbent, reflecting or non-reflecting layer” means a microscopically thin coating of metal or of a chemical compound (for example, metal oxide) which absorbs, for example, infrared light; or which improves the reflecting qualities of the glass while still allowing it to retain a degree of transparency or translucency; or which prevents light from being reflected on the surface of the glass.

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89–80.

Glass of headings 7003, 7004, and 7005, is classified in heading 7006, HTSUS, if it is further worked, but not fitted or framed with other material. While such glass may possess reflective qualities, Legal Note 2(c) requires it to retain a degree of transparency or translucency. The articles in question are described as mirrored glass decorative appliqué. It is now our position that mirrored glass has no degree of transparency or translucency and we find, therefore, that decorative appliqué made from mirrored glass are precluded from classification in heading 7006, HTSUS, by application of Legal Note 2(c). For a general discussion on this issue see **HQ 968221**, dated July 31, 2006.

Heading 7009, HTSUS, is an *eo nomine* provision for glass mirrors. *Eo nomine* provisions usually include all forms of the article. EN 70.09 explains that glass mirrors of heading 7009, HTSUS, are “glass, one surface of which has been coated with metal (usually silver, sometimes platinum or aluminum) to give a clear and brilliant reflection.” The ENs further explain: “[t]his heading covers mirrors in sheets, whether or not further worked. It also includes shaped mirrors of any size, for example, mirrors for furniture, for interior decoration, for railway carriages, etc. . . .” The appliqué are made of mirrored glass and are therefore potentially classifiable in this heading. However, EN 70.09, also explains, in relevant part:

This heading also covers mirrors, whether or not framed, bearing printed illustrations on one surface, provided they retain the essential character of mirrors. **However**, once the printing is such as to preclude use as a mirror, these goods are classifiable in **heading 70.13** as decorative articles of glass. (Original emphasis.)

Because the mirrored glass of the subject appliqué is decorated over its entire surface and has low reflective properties, we find that it has lost the essential character of a mirror and is precluded from use as a mirror. Accordingly, we find that these qualities preclude the appliqué from classification in heading 7009, HTSUS.

Heading 7013, HTSUS, provides for glassware of a kind used for decoration. EN 70.13, provides, in pertinent part:

This heading covers the following types of articles, most of which are obtained by pressing or blowing in moulds:

* * *

On the other hand, this heading covers decorative articles which are in the form of mirrors, but cannot be used as mirrors due to the presence of printed illustrations; otherwise they are classified in **heading 70.09**. (Original emphasis.)

Based on all of the foregoing, we find that the subject mirrored glass appliqués are decorative in nature and unusable as mirrors. They are therefore classified in heading 7013, HTSUS, as glassware of a kind used for decoration.

HOLDING:

By application of GRI 1 and Legal Note 2(c) to Chapter 70, the mirrored glass decorative appliqués without backing are properly classified in heading 7013, HTSUS, as “glassware of a kind used for . . . indoor decoration or similar purposes” and are specifically provided for in subheading 7013.99, HTSUS, as “other glassware, other”, with exact classification depending on the nature of the decoration and the value of the appliqués.

EFFECT ON OTHER RULINGS:

HQ 958837, dated June 18, 1996, is modified with respect to the classification of the mirrored glass decorative appliqués without backing. The tariff classification of the other items described in HQ 958837 is unchanged.

MYLES B. HARMON,

Director;

Commercial and Trade Facilitation Division.

GENERAL NOTICE

**PROPOSED REVOCATION OF A RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CERTAIN HOT AND COLD
COMPRESS PACKS**

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

ACTION: Notice of proposed revocation of a ruling letter and revocation of treatment relating to the tariff classification of certain hot and cold compress packs from China.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) intends to modify a ruling letter relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of certain hot and cold compress packs from China.

Similarly, CBP is proposing to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before May 11, 2007.

ADDRESS: Written comments are to be addressed to Customs and Border Protection, Regulations and Rulings, Office of International Trade, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Teresa Frazier, Tariff Classification and Marking Branch, at (202) 572-8821.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke a ruling letter relating to the tariff classification of certain hot and cold compress packs from China. Although in this notice CBP is specifically referring to

revocation of New York Ruling Letter (NY) L84821, dated June 5, 2005 (set forth as Attachment A to this document), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

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

NY L84821 classified "Instant Hot Compress" pack and "Instant Cold Compress" pack in subheading 3824.90.9190, Harmonized Tariff Schedule of the United States (HTS), which provides for "prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: other . . . other."

Upon review of this ruling, CBP has determined that the identified merchandise was classified incorrectly. The hot compress pack should be classified in subheading 2833.21.0000, HTSUS, which provides for "Sulfates; alums; peroxosulfates (persulfates): Other sulfates: Of magnesium." The cold compress pack should be classified in subheading 3102.30.0000, HTSUS, which provides for "Ammonium nitrate, whether or not in aqueous solution."

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY L84821 and any other ruling not specifically identified, in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letter (HQ) W968297, set forth as Attachment B to this document.

Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially

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

DATED: March 26, 2007

GAIL A. HAMILL for MYLES B. HARMON,
Director;
Commercial and Trade Facilitation Division.

Attachments

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
[ATTACHMENT A]

NY L84821
June 8, 2005
CLA-2-38:RR:NC:2:239 L84821
CATEGORY: Classification
TARIFF NO.: 3824.90.9190

MR. STEPHEN C. LIU
PACIFIC CENTURY CUSTOMS SERVICE
11099 S. La Cienega Blvd., Suite 202
Los Angeles, CA 90045

RE: The tariff classification of "Instant Hot Compress" and "Instant Cold Compress" from China.

DEAR MR. LIU:

In your letter dated May 9, 2005, you requested a tariff classification ruling for "Instant Cold Compress" and "Instant Hot Compress" packs which you have stated are composed of ammonium nitrate and water; and magnesium sulfate and water; respectively. A sample of each product was submitted with your inquiry. The applicable subheading for both products will be 3824.90.9190, Harmonized Tariff Schedule of the United States (HTS), which provides for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; other. The rate of duty will be 5 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Andrew Stone at 646-733-3032.

ROBERT B. SWIERUPSKI,
Director;
National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ W968297
CLA-2 RR:CTF:TCM W968297 TMF
CATEGORY: Classification
TARIFF NO.: 2833.21.0000
3102.30.0000

MR. STEPHEN C. LIU
PACIFIC CENTURY CUSTOMS SERVOCE
11099 S. La Cienega Blvd., Suite 202
Los Angeles, CA 90045

RE: Revocation of NY L84821, dated June 8, 2005, concerning the tariff classification of Hot and Cold Compress Packs from China

DEAR MR. LIU:

Pursuant to your request dated May 9, 2005 for a binding tariff classification ruling, Customs and Border Protection issued New York Ruling Letter (NY) L84821, dated June 8, 2005, in which certain hot and cold compress packs were classified in 3824.90.9190, Harmonized Tariff Schedule of the United States (HTS).

Upon review, the Bureau of Customs and Border Protection (CBP) has determined that the merchandise was erroneously classified. This ruling letter sets forth the correct classification determination.

FACTS:

The facts, which were taken directly from the ruling at issue, are as follows:

In your letter dated May 9, 2005, you requested a tariff classification ruling for "Instant Cold Compress" and "Instant Hot Compress" packs which you have stated are composed of ammonium nitrate and water; and magnesium sulfate and water; respectively. A sample of each product was submitted with your inquiry.

LAW AND ANALYSIS:

Classification of goods under the HTSUSA is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation at the international level. While neither legally binding nor dispositive, the EN provide a commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings.

The subject cold compress pack is comprised of 40–70 percent ammonium nitrate and 30–60 percent water. The subject hot compress pack is comprised of 20–40 percent magnesium sulfate and 60–80 percent water. Both were classified in subheading 3824.90.9190, Harmonized Tariff Schedule of the United States (HTS), which provides for "prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied

industries (including those consisting of mixtures of natural products), not elsewhere specified or included; other . . . other.”

Heading 2833, HTSUS, provides for “sulfates; alums; peroxosulfates (persulfates).” Chapter Note 1(a) to Chapter 28 states: “Except where the context otherwise requires, the headings of this chapter apply only to “[s]eparate chemical elements and separate chemically defined compounds, whether or not containing impurities.” Chapter Note 1(b) to Chapter 28 states: “The products mentioned in (a) above dissolved in water.” EN 38.24(B), states, in pertinent part, that aqueous solutions of Chapter 28 remain classified therein.

The subject magnesium sulfate hot compress pack consists of magnesium sulfate dissolved in water. Based on this description, the subject hot compress pack should be classified in subheading 2833, HTSUS. Additionally, CBP has issued New York Ruling Letter (NY) E85600, dated December 6, 1999 that classified a 50 percent aqueous solution of magnesium sulfate from Canada in subheading 2833.21.0000, HTSUS.

The subject ammonium nitrate cold compress pack also contains water. Chapter 28, Note 3(c) to Chapter 31, which refers to Note 2, Chapter 31, states: “Subject to the provisions of note 1 to section VI, this chapter does not cover: Products mentioned in note 2, 3, 4 or 5 to chapter 31.” Note 2(a)(ii), Chapter 31, states that heading 3102 applies only to ammonium nitrate, whether or not pure. As the ammonium nitrate cold pack is excluded from Chapter 28, it is classifiable in Chapter 31. *See also* NY M81919, in which CBP classified a cold compress containing ammonium nitrate in subheading 3102.30.0000, HTSUS.

Therefore, the subject hot and cold compresses are classified in subheadings 2833.21.0000 and 3102.30.0000, HTSUS, respectively.

HOLDING:

The “Instant Hot Compress” pack is classifiable in subheading 2833.21.0000, HTSUS, which provides for “Sulfates; alums; peroxosulfates (persulfates): Other sulfates: Of magnesium.” The general column one rate of duty is 3.7 percent *ad valorem*.

The “Instant Cold Compress” pack is classifiable in subheading 3102.30.0000, HTSUS, which provides for “Mineral or chemical fertilizers, nitrogenous: Ammonium nitrate, whether or not in aqueous solution.” The general column one rate of duty is FREE.

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

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is 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.

EFFECT ON OTHER RULINGS:

New York Ruling Letter (NY) L84821, dated June 8, 2005, is hereby REVOKED.

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

GENERAL NOTICE**PROPOSED MODIFICATION OF A RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO TARIFF
CLASSIFICATION OF CERTAIN CARRYING BAGS**

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

ACTION: Notice of proposed modification of a ruling letter and revocation of treatment relating to the tariff classification of certain carrying bags.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) intends to modify a ruling letter relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of certain carrying bags. Similarly, CBP is proposing to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before May 11, 2007.

ADDRESS: Written comments are to be addressed to Customs and Border Protection, Regulations and Rulings, Office of International Trade, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Teresa Frazier, Tariff Classification and Marking Branch, at (202) 572-8821.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

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

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify a ruling relating to the tariff classification of four styles of carrying bags. Although in this notice CBP is specifically referring to the modification of New York Ruling Letter (NY) L89286, dated January 18, 2006, (set forth as Attachment A to this document), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

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

In New York Ruling Letter (NY) L89286, dated January 18, 2006, CBP classified five carrying bags from Mexico in subheadings 4202.12.8030 and 4202.92.3031, Harmonized Tariff Schedule of the United States Annotated (HTSUS).

This proposed modification is limited to four styles, identified as MR03, CB04, LB04 and FB03. After our review of L89286, CBP has determined that these styles were classified incorrectly. Rather, they are classifiable in subheading 6305.39.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "sacks

and bags, of a kind used for the packing of goods: of man-made textile materials: other.”

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify NY L89286 and any other ruling not specifically identified, in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letter (HQ) W968162, set forth as Attachment B to this document.

Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

DATED: March 26, 2007

GAIL A. HAMILL for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
NY L89286
January 18, 2006
CLA-2 42:RR:NC:3:341 L89286
CATEGORY: Classification
TARIFF NO.: 4202.12.8030, 4202.92.3031

MR. GORDON RAHSCHULTE
UPS TRADE MANAGEMENT, INC.
12380 Morris Rd.
Alpharetta, GA 30005

RE: The tariff classification of carrying bags from Mexico

DEAR MR. RAHSCHULTE:

In your letter dated December 19, 2005 you requested a classification ruling. The request is on behalf of BAGMASTERS, a division of CTA Manufacturing, Inc.

You have submitted five samples of carrying bags. The bags are identified as styles PR532, nylon mesh shopping bag, MR03, 100-denier nylon mailbag, CB04, polyester top zip courier bag, LB04, 1000 denier nylon locking security bag, and FB03, 420 denier nylon flame barrier bag. Each bag is wholly of man-made fiber textile materials.

You have indicated that the bags are packing materials of the kind classified in heading 6305, HTSUSA, which provides, in part, for other made-up textile articles, sacks and bags, of a kind used for the packing of goods. Heading 6305 provides for bags that are principally used in the marketing and transportation of goods. The Heading does include bags that are used in

the sending of samples by post. Classification must be within the most specific provision and according to the language of the chapters and headings and their relative Notes.

Section XI, Legal Note 1(l) excludes textile goods classifiable in Heading 4202 from classification within the Section. Consideration must first be between the more specific provisions before resort to the excluded provision. Therefore, the initial issue centers on Heading 4202.

The submitted samples CB04, LB04 and FB03 are forms of the *eo nomine* provided "briefcases" and "Occupational Luggage cases of Heading 4202 and all forms thereof. Each item is designed and principally used for the storage, protection organization and portability of documents, papers and similar goods. Item PR532 is an *eo nomine* "shopping bag". Item MR03 is a form of an *eo nomine* "traveling bag" and /or "sport bag." Each possesses the useful characteristics of storage, protection, organization and portability common to the *eo nomine* containers of Heading 4202 and is classifiable therein. Since each is classifiable in heading 4202, the bags are not classifiable within Section XI or any of its Chapters.

The applicable subheading for the document/courier bags, styles FB03, CB04 and LB04 will be 4202.12.8030, Harmonized Tariff Schedule of the United States (HTSUS), which provides for attaché, cases, briefcases, school satchels, occupational luggage cases, and similar cases, with outer surface of textile materials, of man-made fibers. The duty rate will be 17.6 percent ad valorem.

The applicable subheading for the shopping bag and duffel, styles MR03 and PR532 will be 4202.92.3031, Harmonized Tariff Schedule of the United States (HTSUS), which provides, in part, for other travel, sport and similar bags, with outer surface of textile materials, of man-made fibers. The duty rate will be 17.6 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/>.

Tariff numbers 4202.12.8030 and 4202.92.3031 fall within textile category designation 670. Quota and visa status are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information as to whether quota and visa requirements apply to this merchandise, we suggest that you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" available at our web site at www.cbp.gov. In addition, you will find current information on textile import quotas, textile safeguard actions and related issues at the web site of the Office of Textiles and Apparel, at otexa.ita.doc.gov.

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 Kevin Gorman at 646-733-3041.

ROBERT B. SWIERUPSKI,
Director,
National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ W968162
CLA-2 OT:CTF:TCM W968162 TMF
CATEGORY: Classification
TARIFF NO.: 6305.39.0000

GORDON RAHSCHULTE
UPS TRADE MANAGEMENT, INC.
12380 Morris Road
Alpharetta, GA 30005

RE: Reconsideration of NY L89286; dated January 18, 2006, concerning the tariff classification of carrying bags from Mexico

DEAR MR. RAHSCHULTE:

This is in reference to your letter of March 18, 2006, on behalf of your client, BAGMASTERS, a division of CTA Manufacturing, Inc., in which you requested reconsideration of New York Ruling Letter (NY) L89286, dated January 18, 2006, which classified five carrying bags from Mexico in subheadings 4202.12.8030 and 4202.92.3031, Harmonized Tariff Schedule of the United States Annotated (HTSUS). Your request, along with four samples, was forwarded to this office for our consideration. This reconsideration request is limited to styles MR03, CB04, LB04, and FB03.

FACTS:

NY L89286, dated January 18, 2006, classified five styles of carrying bags. The facts, which were taken directly from the ruling at issue, are as follows:

. . . The bags are identified as styles PR532, nylon mesh shopping bag, MR03, 100-denier nylon mailbag, CB04, polyester top zip courier bag, LB04, 1000 denier nylon locking security bag, and FB03, 420 denier nylon flame barrier bag. Each bag is wholly of man-made fiber textile materials.

You have indicated that the bags are packing materials of the kind classified in Heading 6305, HTSUSA, which provides, in part, for other made-up textile articles, sacks and bags, of a kind used for the packing of goods. Heading 6305 provides for bags that are principally used in the marketing and transportation of goods. The Heading does include bags that are used in the sending of samples by post.

Styles FB03, CB04 and LB04 were classified in subheading 4202.12.8030, which provides for attaché cases, briefcases, school satchels, occupational luggage cases, and similar containers, with outer surface of textile materials, of man-made fibers. MR03 and PR532 were classified in subheading 4202.92.3031, HTSUS, which provides, in part, for other travel, sports and similar bags, with outer surface of textile materials, of man-made fibers.

In your submission, you requested to exclude PR532 from this reconsideration. You also provided a description of the four styles of carrying bags as follows:

1. MR03: a "mailbag" made of 1000 denier nylon that measures approximately 26 inches in height × 23 inches in width × 4 inches in depth with a drawstring closure that fits through #3 spur grommets.

2. CB04: a “top zip courier bag” made of polyester with an inside entry window. The bag measures approximately 19 inches in height × 24 inches in width.
3. LB04: a “locking security bag” made of 1000 denier nylon and measures approximately 14 inches in height × 18 inches in width. It has a heavy-duty nickel silver zipper and heavy-duty pop-up lock.
4. FB03: a “boxed bottom flame barrier bag” that is made of a 1000 denier nylon exterior, single layer fiber-shield center and a 420 denier nylon interior. It also features a heavy-duty brass zipper, snap zipper flap and clear vinyl windows on each side and measures approximately 16 inches in height × 21 inches in width × 6 inches in depth.

You state in your submission that the subject bags are used for commercial purposes.

ISSUE:

What is the classification of the four subject carrying bags?

LAW AND ANALYSIS:

Classification of goods under the HTSUS is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation at the international level. While neither legally binding nor dispositive, the EN provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of the headings.

The issue in this case is whether the subject bags are classifiable in 4202, which provides for various containers that are of a kind designed for the storage, protection, organization and portability of various goods including documents, papers and similar goods, or in heading 6305, HTSUSA, which provides for sacks and bags, of a kind used for the packing of goods.

Heading 4202 provides for

Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and **similar containers**; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and **similar containers**, of leather or of composition leather, of sheeting **of plastics**, of textile materials, of vulcanized fiber or of paperboard, **or wholly or mainly covered** with such materials or with paper:

[emphasis added]

U.S. Additional Note 1 to Chapter 42, states:

For the purposes of heading 4202, the expression “travel, sports and similar bags” means goods, other than those falling in subheadings 4202.11 through 4202.39, of a kind designed for **carrying clothing and other personal effects** during travel, including backpacks and

shopping bags of this heading, but does not include binocular cases, camera cases, musical instrument cases, bottle cases and similar containers.

The EN to heading 4202 states, in pertinent part:

This heading covers **only** the articles specifically named therein and similar containers.

These containers may be rigid or with a rigid foundation, or soft and without foundation.

* * *

Although there is no definition of the term “personal effects” within the tariff, there is the view that the term “connotes objects to which an individual has some sort of intimate or personal relation.” See Headquarters Ruling Letter 954072, dated September 2, 1993. It is also our view that heading 4202 provides for containers used to convey personal articles in general (i.e., articles belonging to a person), and that its “scope extends to various containers that are to store and/or transport the belongings of an individual, as opposed to bulk or commercial goods.” Id.; HQ 967177, dated July 22, 2004, which eliminated headings 4202 and 6305 from consideration and classified a pizza delivery bag that contained an induction element designed for only commercial use for conveying products directly from seller to customer in heading 6307, HTSUSA.

Heading 6305, HTSUSA, covers textile sacks and bags, of a kind used for the packing of goods. The EN to heading 6305 states, in pertinent part, that:

This heading covers textile sacks and bags of a kind normally used for the packing of goods for transport, storage or sale.

These articles, which vary in size and shape, include in particular flexible intermediate bulk containers, coal, grain, flour, potato, coffee or similar sacks, mail bags, and small bags of the kind used for sending samples of merchandise by post. The heading also includes such articles as tea sachets.

It is clear that the articles listed under heading 6305, HTSUSA, are of the type used for commercial merchandise being transported or stored for sale, usually in bulk. *But see, e.g.*, HQ 955639, dated April 5, 1994, which classified a polypropylene strip bag used by a municipality for distribution to the public for use in storing yard waste for curbside pickup in subheading 6307.90.9986, HTSUSA; *see also* HQ 089444, dated September 3, 1991, which also classified a woven polypropylene bag in heading 6305.

You assert that the subject bags are designed for commercial use and not for consumers. In your submission, you referenced your client’s website, www.bagmasters.com, which you state supports that the bags are marketed for commercial use. We searched the website but did not locate the items at issue. Rather, we found them under www.bagproducts.com, which states: “For over 75 years Bag Products has been producing a wide range of products that solve problems for businesses like yours . . . As you examine the contents of this catalog, you will find solutions to the everyday issues that confront your business. Bag Products is eager to provide your business with products that will help it run smoother and more efficiently.”

Upon review, we find this to be convincing that the articles are designed for commercial use and not individualized, consumer use. In this case, the subject bags are used for transportation, conveyance and storage of various commercial documents and articles such as mail/parcel documents and cur-

rency. Based on the design and use of these bags, they are precluded from classification in heading 4202 and more appropriately classified in heading 6305, HTSUSA. For classification of substantially similar articles, see HQ 084519, dated May 18, 1989, which classified a cotton bag used by banks for transporting coins in heading 6305, and NY L80890, which classified a polypropylene strip mailbag from China in heading 6305.

HOLDING:

Styles MR03, CB04, LB04 and FB03 are classifiable in subheading 6305.39.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "sacks and bags, of a kind used for the packing of goods: of man-made textile materials: other." The general column one duty rate is 8.4 percent ad valorem and the merchandise falls within textile category 669.

EFFECT ON OTHER RULINGS:

New York Ruling Letter (NY) L86924, dated January 18, 2006, is hereby MODIFIED.

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.

With the exception of certain products of China, quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification), you should contact the local CPB office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is 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

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