

U.S. Customs and Border Protection



U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

8 CFR PART 274

19 CFR PART 162

[USCBP-2006-0122]

CBP DEC. 10-24

RIN 1651-AA58

Administrative Process for Seizures and Forfeitures Under the Immigration and Nationality Act and Other Authorities

AGENCY: U.S. Customs and Border Protection, DHS; U.S. Immigration and Customs Enforcement, DHS.

ACTION: Final rule.

SUMMARY: On February 19, 2008, the Department of Homeland Security issued an interim final rule that consolidated the asset seizure and forfeiture procedures for customs and immigration purposes. The interim final rule primarily aligned forfeiture procedures to allow petitioners to seek remission of seized property before the completion of the forfeiture process. The interim final rule also made technical and conforming changes to update the regulations. This final rule adopts, without change, the interim final rule.

DATES: This final rule is effective June 30, 2010.

FOR FURTHER INFORMATION CONTACT: For CBP: Charles Ressin, Penalties Branch, U.S. Customs and Border Protection (202) 325-0050. For ICE: Jason J. Johnsen, Writer/Editor, Office of Policy, U.S. Immigration and Customs Enforcement, (202) 732-4245.

SUPPLEMENTARY INFORMATION:

Background

On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Pub. L. 107–296, 116 Stat. 2135 (HSA). As a result, on March 1, 2003, the former Immigration and Nationalization Service (INS) of the Department of Justice and the former U.S. Customs Service of the Department of the Treasury were transferred to the Department of Homeland Security (DHS) and reorganized to become the U.S. Citizenship and Immigration Services (USCIS), the Bureau of Immigration and Customs Enforcement (ICE), and the Bureau of Customs and Border Protection (CBP).¹

After passage of the HSA, both CBP and ICE retained authority to perform asset seizures and forfeitures under the provisions of 8 CFR part 274 and 19 CFR parts 162 and 171. For the purpose of improved efficiency, DHS consolidated the processing of asset forfeitures into CBP's operations. The regulations in titles 8 and 19, however, provided two different procedures. Pursuant to the provisions of section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618), petitions for remission of forfeitures were accepted by CBP prior to initiation of any administrative or judicial forfeiture process. In contrast, the regulations adopted under section 274(b) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1324(b) (INA)), provided that the remission or mitigation of such forfeitures could occur only after completion of the forfeiture process despite the fact that this restriction was not imposed by statute.

Interim Final Rule

On February 19, 2008, DHS issued an interim final rule amending DHS regulations to consolidate the procedures for processing administrative seizures and forfeitures and to make technical and conforming changes to the regulations. The interim final rule was published in the **Federal Register** at 73 FR 9010. Specifically, the interim final rule revised the text of 8 CFR 274.1 to provide that all seizures and forfeitures will be administered in accordance with 19 CFR parts 162 and 171. As a result, the procedures previously used for immigration-related forfeitures were eliminated and all asset forfeiture proceedings are now conducted under a consolidated procedure. The change permits CBP to entertain petitions for remission and return of seized property prior to completing the forfeiture process,

¹ DHS subsequently changed the name of the Bureau of Customs and Border Protection to U.S. Customs and Border Protection, and the Bureau of Immigration and Customs Enforcement to U.S. Immigration and Customs Enforcement on March 31, 2007 (*see* 72 FR 20131, dated April 23, 2007).

regardless of whether the seizure was made under customs or immigration laws, and regardless of whether it was made by CBP or ICE. Additionally, the interim final rule revised the text of 8 CFR 274.2 to provide the Chief, Office of Border Patrol or his designees, with the same powers that are provided to Fines, Penalties and Forfeitures Officers in 19 CFR parts 162 and 171, for purposes of administering seizures and forfeitures made by Border Patrol Officers.

The interim final rule also amended the text of 19 CFR sections 162.21, 162.91, and 162.92 by replacing outdated references to Customs, the Customs Service, or legacy Customs officials with updated references to CBP, ICE, or the appropriate CBP or ICE officials. Additionally, the reference to section 460 of the Tariff Act of 1930, as amended (19 U.S.C. 1460) was removed from 19 CFR 162.22 (d) because it had been repealed by Pub. L. 99-570, title III, section 3115(b), Oct. 27, 1986, 100 Stat. 3207-82 and the paragraphs of section 162.22 were redesignated accordingly.

The interim final rule requested public comments. The prescribed comment period closed on April 21, 2008. Only one comment was received and its contents were beyond the scope of the interim final rule.

Conclusion

Accordingly, this rule adopts as a final rule, without change, the interim final rule published on February 19, 2008.

ADMINISTRATIVE PROCEDURE ACT

This rule is procedural in nature and does not alter the substantive rights of the affected parties. Therefore, this rule is exempt from the public notice and comment requirements pursuant to 5 U.S.C. 553(b)(A). In addition, since this final rule adopts without change an interim final rule, which has been in effect since February 19, 2008, the delayed effective date requirement under 5 U.S.C. 553(d) is unnecessary and does not apply.

REGULATORY REQUIREMENTS Executive Order 12866

This rule is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

Because a notice of proposed rulemaking was not required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Paperwork Reduction Act

DHS has determined that the collection of information required by this rule falls under the “administrative exception” to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The “administrative exception,” applies because any such collection is made during the conduct of administrative action taken by an agency against specific individuals or entities. 5 CFR 1320.4(a)(2).

Signing Authority

The authority to prescribe regulations to administer and enforce the immigration laws was transferred by the Homeland Security Act to the Secretary of Homeland Security. The signing authority for these amendments, therefore, falls under 8 CFR 2.1.

LIST OF SUBJECTS

8 CFR Part 274

Administrative practice and procedure, Seizures and forfeitures, Conveyances.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Law enforcement, Penalties, Prohibited merchandise, Reporting and recordkeeping requirements, Seizures and forfeitures.

AMENDMENTS

Accordingly, the interim final rule amending part 274 of title 8 of the Code of Federal Regulations (8 CFR 274) and part 162 of title 19 of the Code of Federal Regulations (19 CFR 162), which was published in the **Federal Register** at 73 FR 9010 on February 19, 2008, is adopted as a final rule without change.

Dated: June 22, 2010

JANET NAPOLITANO,
Secretary.



DOCKET NO. USCBP-2010-0021

Notice of Meeting of the Advisory Committee on Commercial Operations of Customs and Border Protection (COAC)

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

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Commercial Operations of U.S. Customs and Border Protection (COAC) will meet Thursday, July 15, 2010, from 2:00 to 3:00 PM EST via teleconference. The meeting is limited to one topic, the 2010 National Strategy for Global Supply Chain Security, which will be voted upon by the COAC members. The meeting will be open to the public.

DATES: The COAC meeting will take place from 2:00 to 3:00 PM EST on Thursday, July 15, 2010, via teleconference. Please be advised that the meeting is scheduled for one hour and that the meeting may close early if the committee completes its business.

ADDRESSES: The meeting will be held via teleconference. Members of the public interested in attending this teleconference meeting may do so by following the process outlined below (*see* “Public Participation”). Written comments must be submitted and received by July 9, 2010. Comments must be identified by USCBP-2010–0021 and may be submitted by *one* of the following methods:

- **Federal eRulemaking Portal:** *http://www.regulations.gov*. Follow the instructions for submitting comments.
- **E-mail:** *tradeevents@dhs.gov*. Include the docket number in the subject line of the message.
- **Fax:** 202–325–4290.
- **Mail:** Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue, NW, Room 5.2-A, Washington, DC 20229.

Instructions: All submissions received must include the words “Department of Homeland Security” and the docket number for this action. Comments received will be posted without alteration at *www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by COAC, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue, NW, Room 5.2-A, Washington, DC 20229; *tradeevents@dhs.gov*; telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. § App.), DHS hereby announces the meeting of the Advisory Committee on Commercial Operations of Customs and Border Protection (COAC). COAC is tasked with providing advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within DHS or the Department of the Treasury. The teleconference meeting of the COAC will be held on the date and time specified above. The COAC will meet to discuss its views on the development of the 2010 National Strategy for Global Supply Chain Security.

Public Participation: This meeting is open to the public; however, participation in COAC deliberations is limited to committee members, Department of Homeland Security and Department of the Treasury officials, and persons invited to attend the meeting for special presentations. Please note that the meeting may close early if all business is finished. Members of the public may register **online** to attend this COAC teleconference meeting as per the instructions set forth below. All members of the public wishing to attend should promptly call in at the beginning of the teleconference.

Each individual must provide his or her full legal name, e-mail address and phone number no later than 5:00 p.m. EST on July 9, 2010, via online registration at https://apps.cbp.gov/te_registration/?w=26 or e-mail at tradeevents@dhs.gov or via phone at 202-344-1440. The meeting's teleconference call details will be provided to registered members of the public via e-mail.

Information on Services for Individuals with Disabilities: For information on services for individuals with disabilities or to request special assistance, contact Ms. Wanda Tate as soon as possible.

Dated: June 23, 2010

KIMBERLY MARSHO
Director,
Office of Trade Relations
U.S. Customs and Border Protection

DOCKET NO. USCBP-2010-0022**Notice of Meeting of the Advisory Committee on
Commercial Operations of Customs and Border Protection
(COAC)**

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

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Commercial Operations of U.S. Customs and Border Protection (COAC) will meet on Wednesday, August 4, 2010, in Detroit, Michigan. The meeting will be open to the public.

DATES: COAC will meet Wednesday, August 4, 2010, from 1:00 p.m. — 5:00 p.m. EST. Please note that the meeting may close early if the committee completes its business. If you plan on attending, please register either online at https://apps.cbp.gov/te_registration/index.asp?w=27, or by e-mail to tradeevents@dhs.gov by close-of-business on July 30, 2010.

ADDRESSES: The meeting will be held at the The Atheneum Suite Hotel, 1000 Brush Avenue, Grand Ballroom, 8th floor, Detroit, Michigan, 48226, Phone: (313) 962-2323 or (800) 772-2323. The public is invited to submit comments and/or written material on any of the identified agenda items as set forth below. Please note that any comments or written materials that are mailed should reach the contact person at the address listed below before July 30, 2010, so that copies of your submitted materials can be distributed to committee members prior to the meeting. Comments must be identified by USCBP-2010-0022 and may be submitted by *one* of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **E-mail:** tradeevents@dhs.gov. Include the docket number in the subject line of the message.
- **Fax:** 202-325-4290.
- **Mail:** Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue, NW, Room 5.2-A, Washington, DC 20229.

Instructions: All submissions received must include the words “Department of Homeland Security” and the docket number for this action. Comments received will be posted without alteration at www.regulations.gov, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by COAC, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue, NW, Room 5.2-A, Washington, DC 20229; tradeevents@dhs.gov; telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. § App.), DHS hereby announces the meeting of the Advisory Committee on Commercial Operations of Customs and Border Protection (COAC). COAC is tasked with providing advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within DHS or the Department of the Treasury.

The sixth meeting of the eleventh term of COAC will be held at the date, time and location specified above. A tentative agenda for the meeting is set forth below.

Tentative Agenda

1. Trade Facilitation Subcommittee.
2. Importer Security Filing Subcommittee (“10+2”).
3. Intellectual Property Rights Enforcement Subcommittee.
4. Agriculture Subcommittee.
5. Air Cargo Security Subcommittee.
6. Automation Subcommittee.
7. Global Supply Chain Security Subcommittee.
8. Bond Subcommittee.

Procedural

This meeting is open to the public; however, participation in COAC deliberations is limited to committee members, Department of Homeland Security officials, and persons invited to attend the meeting for special presentations. Please note that the meeting may close early if all business is finished.

All visitors must check-in at The Atheneum Suite Hotel at the Grand Ballroom, 8th floor, with CBP officials at the registration desk.

Since seating is limited, all persons attending this meeting should provide notice by close-of-business on July 30, by registering online at https://apps.cbp.gov/te_registration/index.asp?w=27 or, alternatively, by contacting Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue, NW, Washington, DC 20229; tradeevents@dhs.gov; telephone 202-344-1440; facsimile 202-325-4290.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate as soon as possible.

Dated: June 24, 2010

KIMBERLY MARSHO
Director,
Office of Trade Relations U.S. Customs and
Border Protection



QUARTERLY IRS INTEREST RATES USED IN CALCULATING INTEREST ON OVERDUE ACCOUNTS AND REFUNDS ON CUSTOMS DUTIES

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

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning July 1, 2010, the interest rates for overpayments will be 3 percent for corporations and 4 percent for non-corporations, and the interest rate for underpayments will be 4 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

EFFECTIVE DATE: July 1, 2010.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614-4516.

SUPPLEMENTARY INFORMATION:**Background**

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2010-14, the IRS determined the rates of interest for the calendar quarter beginning July 1, 2010, and ending on September 30, 2010. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%). For corporate overpayments, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%). These interest rates are subject to change for the calendar quarter beginning October 1, 2010, and ending December 31, 2010.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

<i>Beginning Date</i>	<i>Ending Date</i>	<i>Underpayments (percent)</i>	<i>Overpayments (percent)</i>	<i>Corporate Overpayments (Eff. 1-1-99) (percent)</i>
070174	063075	6%	6%	
070175	013176	9%	9%	
020176	013178	7%	7%	
020178	013180	6%	6%	
020180	013182	12%	12%	
020182	123182	20%	20%	

<i>Beginning Date</i>	<i>Ending Date</i>	<i>Underpayments (percent)</i>	<i>Overpayments (percent)</i>	<i>Corporate Overpayments (Eff. 1-1-99) (percent)</i>
010183	063083	16%	16%	
070183	123184	11%	11%	
010185	063085	13%	13%	
070185	123185	11%	11%	
010186	063086	10%	10%	
070186	123186	9%	9%	
010187	093087	9%	8%	
100187	123187	10%	9%	
010188	033188	11%	10%	
040188	093088	10%	9%	
100188	033189	11%	10%	
040189	093089	12%	11%	
100189	033191	11%	10%	
040191	123191	10%	9%	
010192	033192	9%	8%	
040192	093092	8%	7%	
100192	063094	7%	6%	
070194	093094	8%	7%	
100194	033195	9%	8%	
040195	063095	10%	9%	
070195	033196	9%	8%	
040196	063096	8%	7%	
070196	033198	9%	8%	
040198	123198	8%	7%	
010199	033199	7%	7%	6%
040199	033100	8%	8%	7%
040100	033101	9%	9%	8%
040101	063001	8%	8%	7%
070101	123101	7%	7%	6%
010102	123102	6%	6%	5%
010103	093003	5%	5%	4%
100103	033104	4%	4%	3%
040104	063004	5%	5%	4%
070104	093004	4%	4%	3%
100104	033105	5%	5%	4%
040105	093005	6%	6%	5%
100105	063006	7%	7%	6%
070106	123107	8%	8%	7%

<i>Beginning Date</i>	<i>Ending Date</i>	<i>Underpayments (percent)</i>	<i>Overpayments (percent)</i>	<i>Corporate Overpayments (Eff. 1-1-99) (percent)</i>
010108	033108	7%	7%	6%
040108	063008	6%	6%	5%
070108	093008	5%	5%	4%
100108	123108	6%	6%	5%
010109	033109	5%	5%	4%
040109	093010	4%	4%	3%

Dated: June 24, 2010

DAVID V. AGUILAR
Acting Commissioner
U.S. Customs and Border Protection

**NOTICE OF ISSUANCE OF FINAL DETERMINATION
 CONCERNING DIMMER AND FAN SPEED SWITCH
 CONTROLS**

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

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of certain dimmer and fan speed switch controls which may be offered to the United States Government under a government procurement contract. Based upon the facts presented, in the final determination CBP concluded that Mexico is the country of origin of the dimmer and fans speed switch controls for purposes of U.S. Government procurement.

DATES: The final determination was issued on June 15, 2010. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR § 177.22(d), may seek judicial review of this final determination July 29, 2010.

FOR FURTHER INFORMATION CONTACT: Karen S. Greene, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202-325-0041).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 15, 2010, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final

determination concerning the country of origin of certain dimmer and fan speed switch controls which may be offered to the United States Government under a government procurement contract. This final determination, in HQ H098417, was issued at the request of Pass & Seymour, Inc. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511–18). In the final determination, CBP concluded that, based upon the facts presented, certain articles will be substantially transformed in Mexico. Therefore, CBP found that Mexico is the country of origin of the finished articles for purposes of U.S. Government procurement.

Section 177.29, Customs Regulations (19 CFR § 177.29), provides that notice of final determinations shall be published in the *Federal Register* within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR § 177.30), provides that any party-at-interest, as defined in 19 CFR § 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the *Federal Register*.

Dated: June 15, 2010

GEORGE F. McCRAY
Acting Executive Director,
Office of Regulations and Rulings,
Office of International Trade

HQ H098417

June 15, 2010

OT:RR:CTF:VS H098417 KSG

DANIEL B. BERMAN, Esq.
HANCOCK & ESTABROOK LLP
1500 AXA TOWER I
100 MADISON STREET
SYRACUSE, NY 13202

Re: U.S. Government Procurement; Title III, Trade Agreements Act of 1979; Country of Origin of Titan dimmer and fan speed switch control; substantial transformation

DEAR MR. BERMAN:

This is in response to your letter, dated March 5, 2010, requesting a final determination on behalf of Pass & Seymour Inc., pursuant to subpart B of 19 CFR Part 177.

Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 et seq.) (“TAA”), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of certain dimmer and fan speed control switches that Pass & Seymour may sell to the U.S. Government. We note that Pass & Seymour is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and is entitled to request this final determination.

You also asked about the tariff classification for the components and the tariff classification and the country of origin marking requirements for the imported good. We have referred these questions to the Tariff Classification and Marking Branch of this office for their response directly to you.

FACTS:

Pass & Seymour (“P & S”) designs, manufactures and distributes dimmer and fan speed control switches in the U.S. for residential and commercial use in electrical circuits of less than 1,000 volts. This case involves two models: the Titan model dimmer and fan speed switch control and the Harmony dimmer.

Legrand, the French parent company of P & S, produces the subcomponents of the dimmers in Hong Kong. The subcomponents are then shipped to Mexico for assembly. The finished product is then imported into the U.S.

The processing in Mexico includes the following: 1) the assembly of the bare printed circuit board into a final printed circuit board (“PCB”), and the assembly of the PCB with other components into the finished product. The titan dimmer has a total of 34 components in addition to the PCB. The harmony dimmer contains a PCB in addition to 28 other components.

ISSUE:

What is the country of origin of the imported dimmer and fan switches described above for the purpose of U.S. government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 CFR § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. *See also* 19 CFR § 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States*, 573 F. Supp. 1149 (Ct. Int’l Trade 1983), *aff’d*, 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. *See* C.S.D. 80–111, C.S.D. 85–25, C.S.D. 89–110, C.S.D. 89–118, C.S.D. 90–51, and C.S.D. 90–97. In C.S.D. 85–25, 19 Cust. Bull. 844 (1985), CBP held that for purposes of the Generalized System of Preferences (“GSP”), the assembly of a large number of fabricated components onto a printed circuit board in a process involving a considerable amount of time and skill resulted in a substantial transformation. In that case, in excess of 50 discrete fabricated components (such as resistors, capacitors, diodes, integrated circuits, sockets, and connectors) were assembled. Whether an operation is complex and meaningful depends on the nature of the operation, including the number of components assembled, number of different operations, time, skill level required, attention to detail, quality control, the value added to the article, and the overall employment generated by the manufacturing process.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item’s components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. No one factor is determinative.

CBP recently ruled in H047362, dated March 26, 2009, that a similar product of P & S, electrical components, were substantially transformed when Chinese parts were assembled in Mexico into the finished article. That case also involved the production of the PCB and the assembly of the PCB and 29 other parts in a process that took about 10 minutes into the finished product. We find that this case is very similar to H047362. The assembly in Mexico is sufficiently complex and the components are substantially trans-

formed into a final product that has a new name, character and use. Therefore, the country of origin of the Titan dimmer and fan switch and the harmony dimmer for government procurement purposes is Mexico.

HOLDING:

Based on the facts of this case, the country of origin of the Titan dimmer and fan switch and the Harmony Dimmer is Mexico for purposes of U.S. Government procurement.

Notice of this final determination will be given in the Federal Register, as required by 19 CFR § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR § 177.31 that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR § 177.30, any party-at-interest may, within 30 days after publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

GEORGE F. McCRAY

Acting Executive Director

*Office of Regulations and Rulings Office of
International Trade*



**REVOCATION OF RULING LETTER AND REVOCATION OF
TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF A CERTAIN “SHAMU SNAK PAK”**

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

ACTION: Notice of revocation of two ruling letters and treatment relating to tariff classification of a plastic food container identified as a “Shamu Snak Pak.”

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is revoking New York Ruling Letters (NY) N015784 and J86143, relating to the tariff classification of a plastic food container under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin* Vol. 44, No. 7, on February 10, 2010. CBP received no comments in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 13, 2010.

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

SUPPLEMENTARY INFORMATION:

Background

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY N015784 and J86143 was published on February 10, 2010, in Volume 44, Number 7, of the *Customs Bulletin*. CBP received no comments in response to the notice.

As stated in the proposed notice, this action will cover any rulings on the subject merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ruling identified above. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to section 625 (c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

Any person involved in substantially identical transactions should have advised CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this final decision.

In NY N015784 and NY J86143, CBP determined that the "Shamu Snak Pak" was classified in heading 9503, HTSUS, which provides for: "Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N015784 and NY J86143, in order to reflect the proper classification of the subject merchandise according to the analysis contained in Headquarters Ruling Letter H042583, which is attached to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

Dated: June 28, 2010

IEVA K. O'ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H042583

June 28, 2010

CLA-2 OT:RR:CTF:TCM H042583 CkG

CATEGORY: Classification

TARIFF NO.: 4202.12.20

MS. SHERRY SAMPSON
WHIRLEY INDUSTRIES, INC.
P.O. BOX 988
WARREN, PA 16365

Re: Revocation of NY N015784 and NY J86143; classification of plastic food container

DEAR MS. SAMPSON,

This is in reference to New York Ruling Letter (NY) N015784 and NY J86143, issued by the Customs and Border Protection (CBP) National Commodity Division on September 11, 2007 and June 18, 2003, respectively, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of a plastic food container. We have reconsidered these decisions, and for the reasons set forth below, have determined that classification of the food container as a toy of heading 9503, HTSUS, is incorrect.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice proposing to revoke NY N015784 and NY J86143 was published on February 10, 2010, in Volume 44, Number 7, of the *Customs Bulletin*. CBP received no comments in response to the notice.

FACTS:

NY N015784, dated September 11, 2007, issued to Whirley Industries, Inc., describes a sample of the Shamu Snak Pak as follows:

a black and white plastic container molded into the shape of a whale. The whale container measures approximately 10 inches in length and 8 ½ inches in height. The container is molded into a replica of ‘Shamu’ the whale which is located in the Sea World Adventure Park. The words ‘Sea World Adventure Parks’ are printed on the outside of the container. The container is constructed to be used as a food container for a children’s meal at the food establishments in a park or zoo and will be given away as a novelty toy. In addition, you state that you intend to import similar items in various colors and shapes such as cheetah heads, tiger heads and monkey heads.

NY J86143, dated June 18, 2003, was issued to customs broker Mr. Spencer Hutchins of AKA International, Inc. (representing importer Drink Works). This ruling describes a product called the Shamu Snack Pack, item number 3410-F001, as “constructed of injection molded polypropylene and is a novelty give away toy that accompanies each kid’s meal that is purchased.”

Whirley Industries, Inc. also does business as Whirley Drink Works. The items described in NY N015784 and NY J86143 appear to be substantially similar and we will treat them as such.

ISSUE:

The issue is whether the Shamu Snak Pak container is a toy of heading 9503, HTSUS, a container of heading 4202, HTSUS, or a household article of heading 3924, HTSUS.

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the remaining GRIs 2 through 6.

The HTSUS provisions under consideration are as follows:

- 3924: Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics:
 - 3924.10: Tableware and kitchenware:
 - 3924.10.40: Other.....
 - 3924.90: Other:
 - 3924.90.56: Other.....
 - * * * * *
- 4202: 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:
 - Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels and similar containers:
- 4202.12: With outer surface of plastics or of textile materials:
 - 4202.12.20: With outer surface of plastics
 - * * * * *
- 9503.00.00: Tricycles, scooters, pedal cars and similar wheeled toys; dolls carriages; dolls, other toys; reduced-scale (“scale”) models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof.....
- * * * * *

Chapter Note 2(m) of Chapter 39, HTSUS, provides that Chapter 39 does not cover “Saddlery or harness (heading 4201) or trunks, suitcases, handbags or other containers of heading 4202.”

Note 1(d) to Chapter 95 provides that the Chapter does not cover “Sports bags or other containers of heading 4202, 4303 or 4304.”

EN 39.24 provides, in pertinent part, as follows:

This heading covers the following articles of plastics:

- A) Tableware such as tea or coffee services, plates, soup tureens, salad bowls, dishes and trays of all kinds, coffee-pots, teapots, sugar bowls, beer

mugs, cups, sauce-boats, fruit bowls, cruets, salt cellars, mustard pots, egg-cups, teapot stands, table mats, knife rests, serviette rings, knives, forks and spoons.

(B) Kitchenware such as basins, jelly moulds, kitchen jugs, storage jars, bins and boxes (tea caddies, bread bins, etc.), funnels, ladles, kitchen-type capacity measures and rolling-pins.

(C) Other household articles such as ash trays, hot water bottles, match-box holders, dustbins, buckets, watering cans, food storage containers, curtains, drapes, table covers and fitted furniture dust-covers (slipovers).

* * * * *

EN 42.02 provides, in pertinent part, the following:

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.

Subject to Notes 1 and 2 to this Chapter, the articles covered by the first part of the heading may be of any material. The expression “similar containers” in the first part includes hat boxes, camera accessory cases, cartridge pouches, sheaths for hunting or camping knives, portable tool boxes or cases, specially shaped or internally fitted to contain particular tools with or without their accessories, etc.

EN 95.03 states, in pertinent part, as follows:

D) Other toys.

This group covers toys intended essentially for the amusement of persons (children or adults)...This group includes...

(i) Toys representing animals or non-human creatures even if possessing predominantly human physical characteristics (e.g., angels, robots, devils, monsters), including those for use in marionette shows.

* * * * *

Classification within heading 3924 is subject to Chapter 39, Legal Note 2(m), which excludes from Chapter 39 goods that are classifiable in heading 4202, HTSUS. Goods of heading 4202, HTSUS, are similarly excluded from Chapter 95 by virtue of Chapter Note 1(d). Therefore, if the goods are described in heading 4202, they are excluded from classification in any of the provisions of Chapters 39 or 95, even if they are described therein.

Heading 4202, HTSUS, is a two part heading which covers only the articles specifically named therein and similar containers. The first portion of the heading covers certain cases and containers of any material. The second portion covers, amongst other things, insulated food or beverage bags, only when constructed of certain materials not including plastic. *See* EN 42.02. For the subject merchandise to be classified in heading 4202, HTSUS, we must therefore find that it falls within the scope of the first part of the heading, as a “similar container” to those enumerated therein.

In classifying goods under the residual provision of “similar containers” of heading 4202, HTSUS, the Court of International Trade has stated as follows: “As applicable to classification cases, *ejusdem generis* (of a similar kind) requires that the imported merchandise possess the essential characteristics or purposes that unite the articles enumerated *eo nomine* [by name] in order to be classified under the general terms.” *Totes, Inc. v. United States*, 18 CIT 919, 865 F. Supp. 867, 871 (1994), *aff’d*. 69 F. 3d 495 (Fed. Cir. 1995). The court found that the rule of *ejusdem generis* requires only that the imported merchandise share the essential character or purpose running through all the containers listed *eo nomine* in heading 4202, HTSUSA., i.e., “...to organize, store, protect and carry various items.” *Totes*, 865 F. Supp. at 872.

Your website states that your Snak Pak line “Holds standard size kids meal items.” <http://www.whirleydrinkworks.com/prodsum?readform&prod=SNK-MON>. The Shamu Snak Pak thus clearly shares the essential characteristics of goods of heading 4202; it is specifically designed to organize, store, protect and transport food. The Snak Pak is not limited to food, however; like trunks, briefcases, suitcases, etc. of heading 4202, it can be used to store and organize any number and kind of personal items.

Furthermore, the Shamu Snak Pak is comparable to plastic lunchboxes, which have consistently been classified in heading 4202, HTSUS. *See* Headquarters Ruling Letter (HQ) 952702, dated April 9, 1993; HQ 088472 (August 17, 1992); HQ 950049 (April 21, 1992); HQ 087281 (October 29, 1990); HQ 082488 (February 21, 1990); N047586 (January 21, 2009); NY K81365 (December 17, 2003); NY C86517 (May 6, 1998); and NY N878828 (October 13, 1992). Each ruling cited above found the plastic lunchbox in question to be *ejusdem generis* with the articles set forth in heading 4202, HTSUS. For instance, in HQ 087281, CBP stated as follows: “While the lunchbox allows for short-term storage and protection of food and beverages, it is designed primarily for the convenience of the traveler. Consequently, it is more properly classifiable as a similar container of heading 4202.” In HQ 088472, we stated: “Since the function of the lunchbox at issue is to carry and store one’s food, it is *ejusdem generis* with the containers of Heading 4202 and consequently it is excluded from Headings 3923 and 3924 by virtue of Chapter Note 2(h) of Chapter 39.”

Insofar as the subject merchandise is classified in heading 4202, HTSUS, it cannot be classified in headings 3923 or 3924, HTSUS, in accordance with Chapter 39 Note 2(m), or in heading 9503, HTSUS, in accordance with Chapter 95 Note 1(d).

HOLDING:

By application of GRI 1, the Shamu Snak Pak is classified in heading 4202, HTSUS, specifically in subheading 4202.12.20, which provides for: “Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, 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: Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels and similar containers: With outer surface of plastics or of textile materials: With outer surface of plastics.” The 2010 column one, general rate of duty is 20% *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/>.

EFFECT ON OTHER RULINGS:

NY N015784, dated September 11, 2007 and NY J86143, dated June 18, 2003, are hereby revoked.

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

Sincerely,

IEVA K. O’ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

cc: Mr. Spencer Hutchins
AKA International, Inc
1200 South 192nd St. Suite 103
Seattle, WA 98148



**MODIFICATION AND REVOCATION OF RULING LETTERS
AND REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CERTAIN DRIVER
ORGANIZERS**

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

ACTION: Notice of modification and revocation of ruling letters and treatment relating to tariff classification of textile driver organizers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is modifying New York Ruling Letter (NY) 813199, dated August 23, 1995, and NY R04768, dated September 11, 2006, relating to the tariff classification of an “auto visor wallet” and a “Catch-All Organizer” under the Harmonized Tariff Schedule of the United States (HTSUS), and is revoking NY F80907, dated January 6, 2000, relating to the tariff classification of an “auto wallet” under the HTSUS. Similarly,

CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin* Vol. 44, No. 7, on February 10, 2010. CBP received one comment opposing the modification of NY 813199.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 13, 2010.

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

SUPPLEMENTARY INFORMATION:

Background

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to modify NY 813199 and NY R04768 and to revoke NY F80907 was published on February 10, 2010, in Volume 44, Number 7, of the *Customs Bulletin*. CBP received one comment in response to the notice.

As stated in the proposed notice, this action will cover any rulings on the subject merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search

existing databases for rulings in addition to the ruling identified above. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In NY 813199 and NY F80907, CBP determined that certain "auto wallets" were classified as in subheadings 8708.99.80, HTSUS, and 8708.29.50, HTSUS, respectively, as parts and accessories of motor vehicles of headings 8701 to 8705. In NY R04768, CBP similarly determined that a "Catch-All" organizer was classified in heading 8708, HTSUS, as a motor vehicle accessory.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying NY 813199 and R04768 and is revoking NY F80907, and revoking or modifying any other ruling not specifically identified, in order to reflect the proper classification of the subject organizers according to the analysis contained in proposed Headquarters Ruling Letters (HQ) H075358, H075360 and H075361, which are attached to this document. The comment opposing the modification of NY 813199 is addressed in HQ H075358. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

Dated: June 28, 2010

IEVA K. O'ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

HQ H075358

June 28, 2010

CLA-2 OT:RR:CTF:TCM H075358 CkG

CATEGORY: Classification

TARIFF NO.: 4202.92.90

MR. LOU PIROPATO
DANIEL F. YOUNG, INC.
17 BATTERY PLACE
NEW YORK, NY 10004-1101

RE: Modification of NY 813199; classification of a certain auto visor wallet

DEAR MR. PIROPATO:

This is in regard to New York Ruling Letter (NY) 813199, dated August 25, 1995, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of a certain auto visor wallet. In NY 813199, CBP classified the visor wallet in heading 8708, HTSUS, as motor vehicle accessory. We have reconsidered this ruling and have determined that the visor wallet is correctly provided for in heading 4202, HTSUS, as a travel bag or case.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to modify NY 813199 was published on February 10, 2010, in Volume 44, Number 7, of the *Customs Bulletin*. CBP received one comment in response to this notice.

FACTS:

The subject article was described in NY 813199 as follows:

Item 16403, described as a “Visor Wallet”, is an auto visor wallet composed of vinyl designed to be attached to a sun visor in an automobile by means of two elastic straps that are sewn across the back of the article. The item is solely or principally used in an automobile. The visor has a large zippered pocket and two small open pockets on the front exterior designed to hold maps, receipts, registration certificates, toll booklets and other miscellaneous items.

ISSUE:

Is the subject visor wallet solely or principally suitable for use with a motor vehicle and thus classifiable as an accessory of Heading 8708, HTSUS, or as a travel bag of Heading 4202, HTSUS?

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 of the Harmonized System 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. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS provisions at issue are as follows:

- 4202: 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:
- Other:
- 4202.92: With outer surface of sheeting of plastic or of textile materials:
- Other:
- 4202.92.90: Other....
- * * * * *
- 8708: Parts and accessories of the motor vehicles of headings 8701 to 8705
- Other parts and accessories:
- 8708.99: Other:
- Other:
- Other:
- 8708.99.81: Other....
- * * * * *

Section XVII, Note 3 provides as follows:

References in chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

EN 87.08 further clarifies that heading 8708 will only cover accessories to motor vehicles of headings 8701 to 8705 if they are suitable for use solely or principally with such motor vehicles.

In NY 813199, CBP found that the subject visor wallet was suitable for use principally with a motor vehicle, because it was primarily designed to be affixed to an automobile visor. We received one comment opposing the modification of NY 813199. The commenter argued that the visor wallet is not carried on the person but kept on the automobile visor at all times. We disagree. There is nothing in the design of the article that would limit its use to automobiles. The elastic bands do not necessarily suggest that its principal use would be with a car visor, as opposed to carried in a pocket, handbag, briefcase, etc. Furthermore, the product has no particular design feature which makes it more suitable for use inside a vehicle than outside. Any other means of storing or carrying the wallet, such as a pocket, saddlebag, briefcase

or purse, are equally appropriate and suitable. Of course certain documents, such as a vehicle's registration and insurance, are likely to be kept inside the vehicle, but there is still nothing that would limit the article to carrying these documents in particular, or that would make it more suitable for such documents than any others. Furthermore, such documents can be stored with greater safety and privacy in the glove compartment of a vehicle.

Finally, Explanatory Note 87.08 lists a number of examples of items included in heading 8708. Such examples include tires, radiators, brake cables, bumpers, engine, battery and similar articles designed specifically for motor vehicles and of little to no use in any other context. Nothing like the article at issue in this case is mentioned in the ENs.

Heading 4202, HTSUS, provides for, among other items, wallets, purses, map cases, traveling bags, and similar containers of textile materials such as the instant article. In classifying goods under the residual provision of "similar containers" of heading 4202, HTSUS, the Court of International Trade has stated as follows: "As applicable to classification cases, *ejusdem generis* requires that the imported merchandise possess the essential characteristics or purposes that unite the articles enumerated *eo nomine* [by name] in order to be classified under the general terms." *Totes, Inc. v. United States*, 18 CIT 919, 865 F. Supp. 867, 871 (1994), *aff'd*. 69 F. 3d 495 (Fed. Cir. 1995). The court found that the rule of *ejusdem generis* requires only that the imported merchandise share the essential character or purpose running through all the containers listed *eo nomine* in heading 4202, HTSUSA., i.e., "...to organize, store, protect and carry various items." *Totes*, 865 F. Supp. at 872. The auto visor wallet is designed to store, protect, and carry personal documents. It thus shares the essential character and purpose of the containers of heading 4202, HTSUS. Moreover, the visor wallet's essential character—i.e., that of a wallet of heading 4202, HTSUS—is evident in both the name of the product and its physical resemblance to general purpose wallets classified in heading 4202, HTSUS.

In addition, many prior rulings have classified similar articles in heading 4202, despite their claimed use as motor vehicle accessories. These include Headquarters Ruling Letter (HQ) 084931, dated August 14, 1989; HQ 087795, dated August 30, 1990; NY 808002, dated March 28, 1995; NY G87545, dated February 26, 2001; NY G88609, dated April 3, 2001; NY M80989; dated March 16, 2006; and NY N032058, dated July 29, 2008.

HOLDING:

By application of GRI 1, the visor wallet is classified in subheading 4202.92.9026, HTSUS Annotated, which provides for "other" containers and cases, with outer surface of textile materials, of man-made fibers. The rate of duty will be 17.6% *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/>.

Subheading 4202.92.9026, HTSUSA, falls within textile category 670. 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. Quota and visa requirements are the result of international agreements that are subject to frequent renego-

tiations 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:

New York Ruling Letter 813199, dated August 23, 1995, is hereby modified.

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

Sincerely,

IEVA K. O’ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

[ATTACHMENT B]

HQ H075360

June 28, 2010

CLA-2 OT:RR:CTF:TCM H075360 CkG

CATEGORY: Classification

TARIFF NO.: 4202.92.90

MS. ERIN A. BARCLAY
CASE LOGIC, INC.
6303 DRY CREEK PARKWAY
LONGMONT CO 80503

RE: Modification of NY R04768; classification of “Catch-All” automotive organizer

DEAR MS BARCLAY:

This is in regard to New York Ruling Letter (NY) R04768, dated September 11, 2006, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of the “Catch-All” Organizer. In NY R04768, CBP classified the Catch-All organizer in heading 8708, HTSUS, as motor vehicle accessory. We have reconsidered this ruling and have determined that the Catch-All organizer is correctly provided for in heading 4202, HTSUS.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to modify NY R04768 was published on February 10, 2010, in Volume 44, Number 7, of the *Customs Bulletin*. CBP received no comments in response to the proposed action.

FACTS:

NY R04768 described the instant article as follows:

The third item (AXNC-5) is a Catch-All. The primary function of the product is to hold small items within reach of the front seat passengers in a vehicle. The holder is a single compartment attached with a snap to a bendable wire covered in nylon webbing. The product is designed so that the bendable wire is inserted into the gaps in the air vents or wrapped around/attached to another surface in the vehicle. The main body is made of nylon, some of which is backed with PU foam. The compartment lining is nyllex. There are decorative trimmings using leather, PVC, and nylon.

ISSUE:

Is the Catch-All organizer solely or principally suitable for use with a motor vehicle and thus classifiable as an accessory of Heading 8708, HTSUS, or as a travel bag of Heading 4202, HTSUS?

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, the remaining GRIs may then be applied.

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

The HTSUS provisions at issue are as follows:

- 4202: 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:
- Other:
- 4202.92: With outer surface of sheeting of plastic or of textile materials:
- Other:
- 4202.92.90: Other....
- * * * * *
- 8708: Parts and accessories of the motor vehicles of headings 8701 to 8705
- Other parts and accessories of bodies (including cabs):
- 8708.29: Other:
- 8708.29.50 Other:
- * * * * *

Section XVII, Note 3 provides as follows:

References in chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principal use of that part or accessory."

EN 87.08 further clarifies that heading 8708 will only cover accessories to motor vehicles of headings 8701 to 8705 if they are suitable for use solely or principally with such motor vehicles.

In NY R04768, CBP found that the Catch-All organizer was suitable for use principally with a motor vehicle, due primarily to the bendable wire attached to the back of the article. The presence of the removable wire does not necessarily suggest that the organizer would be attached to the car, as opposed to a belt or bag, nor does it prevent the article from being carried in a pocket, handbag, briefcase, or affixed to a belt. Any such additional means of storing or carrying the organizer are equally appropriate and suitable. Furthermore, the articles the holster is designed to store, such as a cell phone or spectacles, are not items that would be kept in an automobile. They are items normally carried in pockets, bags, etc. While a separate pouch attached

to a car visor or elsewhere in the car might make these items accessible, they would be equally accessible if the holster were attached to a bag, or simply placed in an empty passenger seat. In short, there is nothing in the design of the article that would limit its use to automobiles. Finally, Explanatory Note 87.08 lists a number of examples of items that could be included in heading 8708, HTSUS. Such examples include tires, radiators, brake cables, bumpers, engine, battery and similar articles designed specifically for motor vehicles and of little to no use in any other context. Nothing like the article at issue in this case is mentioned in the EN to heading 8708.

Heading 4202, HTSUS, provides for, among other items, spectacle cases, camera cases, holsters, traveling bags and similar containers of textile materials such as the subject article. In classifying goods under the residual provision of “similar containers” of heading 4202, HTSUS, the Court of International Trade has stated as follows: “As applicable to classification cases, *ejusdem generis* requires that the imported merchandise possess the essential characteristics or purposes that unite the articles enumerated *eo nomine* [by name] in order to be classified under the general terms.” *Totes, Inc. v. United States*, 18 CIT 919, 865 F. Supp. 867, 871 (1994), *aff’d*. 69 F. 3d 495 (Fed. Cir. 1995). The court found that the rule of *ejusdem generis* requires only that the imported merchandise share the essential character or purpose running through all the containers listed *eo nomine* in heading 4202, HTSUSA, i.e., “...to organize, store, protect and carry various items.” *Totes*, 865 F. Supp. at 872.

The Catch-All is designed to store, protect, and carry personal items. It thus shares the essential character and purpose of the containers of heading 4202, HTSUS, and is therefore *ejusdem generis* with those articles. Past rulings have also classified similar articles in Heading 4202, despite their claimed use as motor vehicle accessories. See *e.g.*, Headquarters Ruling Letter (HQ) 084931, dated August 14, 1989; HQ 087795, dated August 30, 1990; NY G87545, dated February 26, 2001; NY G88609, dated April 3, 2001; NY M80989, dated March 16, 2006; and NY N032058, dated July 29, 2008.

HOLDING:

By application of GRI 1, the Catch-All organizer is classified in heading 4202, HTSUS, specifically 4202.92.9026, HTSUS Annotated, which provides for: “Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; ... of textile materials: Other: With outer surface of sheeting of plastic or of textile materials: Other: Other: With outer surface of textile materials: Other: Of man-made fibers.” The rate of duty will be 17.6% *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/>.

Subheading 4202.92.9026, HTSUSA, falls within textile category 670. 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. 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:

New York Ruling Letter R04768, dated September 11, 2006, is hereby modified.

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

Sincerely,

IEVA K. O’ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

[ATTACHMENT C]

HQ H075361

June 28, 2010

CLA-2 OT:RR:CTF:TCM H075361 CkG

CATEGORY: Classification

TARIFF NO.: 4202.92.90

MR. DAVID L McCLEES
TALUS CORPORATION
82 SCOTT DRIVE
WESTBROOK, MAINE 04092

RE: Revocation of NY F80907; Classification of “Auto-Wallet Rand”

DEAR MR. McCLEES:

This is in regard to New York Ruling Letter (NY) F80907, dated January 6, 2000, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of the “Auto-Wallet Rand.” In NY F80907, CBP classified the Auto-Wallet in heading 8708, HTSUS, as motor vehicle accessory. We have reconsidered this ruling and have determined that it is incorrect.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY F80907 was published on February 10, 2010, in Volume 44, Number 7, of the *Customs Bulletin*. CBP received no comments in response to the proposed action.

FACTS:

The subject article was described in NY F80907 as follows:

You submitted a sample of the AutoWallet-Rand, which is a private label for Rand McNally. The AutoWallet is an auto document organizer chiefly used to contain articles such as an auto insurance card, driver’s license, registration and other small identification papers. It is made of nylon material with vinyl windows.

ISSUE:

Is the subject “Auto Wallet” solely or principally suitable for use with a motor vehicle and thus classifiable as an accessory of Heading 8708, HTSUS, or as a travel bag of Heading 4202, HTSUS.

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 of the Harmonized System 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. It is CBP’s practice to follow, whenever possible, the terms of the ENs when interpreting

the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS provisions at issue are as follows:

4202: 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:

Other:

4202.92: With outer surface of sheeting of plastic or of textile materials:

Other:

4202.92.90: Other....

* * * * *

8708: Parts and accessories of the motor vehicles of headings 8701 to 8705

8708.29: Other:

8708.29.50 Other:

Section XVII, Note 3 provides as follows:

References in chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

EN 87.08 further clarifies that heading 8708 will only cover accessories to motor vehicles of headings 8701 to 8705 if they are suitable for use solely or principally with such motor vehicles.

In NY F80907, CBP found that the subject Auto-Wallet was suitable for use principally with a motor vehicle, because it was primarily designed to be affixed to an automobile visor. However, there is nothing in the design of the article that would limit its use to automobiles. The elastic bands do not necessarily suggest that its principal use would be with a car visor, as opposed to carried in a pocket, handbag, briefcase, etc. Furthermore, the product has no particular design feature which makes it more suitable for use inside a vehicle than outside. Any other means of storing or carrying the wallet, such as a pocket, saddlebag, briefcase or purse, is equally appropriate and suitable. Of course certain documents, such as a vehicle’s registration and insurance, are likely to be kept inside the vehicle, but there is still nothing that would limit the article to carrying these documents in particular, or that would make it more suitable for such documents than any others. Furthermore, such documents can be stored with greater safety and privacy in the glove compartment of a vehicle.

Finally, Explanatory Note 87.08 lists a number of examples of items included in heading 8708. Such examples include tires, radiators, brake cables, bumpers, engine, battery and similar articles designed specifically for motor

vehicles and of little to no use in any other context. Nothing like the article at issue in this case is mentioned in the ENs.

Heading 4202, HTSUS, provides for, among other items, wallets, purses, map cases, traveling bags, and similar containers of textile materials such as the instant article. In classifying goods under the residual provision of “similar containers” of heading 4202, HTSUS, the Court of International Trade has stated as follows: “As applicable to classification cases, *ejusdem generis* requires that the imported merchandise possess the essential characteristics or purposes that unite the articles enumerated *eo nomine* [by name] in order to be classified under the general terms.” *Totes, Inc. v. United States*, 18 CIT 919, 865 F. Supp. 867, 871 (1994), *aff’d*, 69 F. 3d 495 (Fed. Cir. 1995). The court found that the rule of *ejusdem generis* requires only that the imported merchandise share the essential character or purpose running through all the containers listed *eo nomine* in heading 4202, HTSUSA., i.e., “...to organize, store, protect and carry various items.” *Totes* 865 F. Supp. at 872. The Auto-Wallet Rand is designed to store, protect, and carry personal documents. It thus shares the essential character and purpose of the containers of heading 4202, HTSUS. Moreover, the Auto-Wallet’s essential character—i.e., that of a wallet of heading 4202, HTSUS—is evident in both the name of the product and its physical resemblance to general purpose wallets classified in heading 4202, HTSUS.

In addition, many prior rulings have classified similar articles in heading 4202, despite their claimed use as motor vehicle accessories. These include HQ 084931, dated August 14, 1989; HQ 087795, dated August 30, 1990; NY 808002, dated March 28, 1995; NY G87545, dated February 26, 2001; NY G88609, dated April 3, 2001; NY M80989; dated March 16, 2006; and NY N032058, dated July 29, 2008.

HOLDING:

By application of GRI 1, the Auto-Wallet is classified in subheading 4202.92.9026, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), which provides for “other” containers and cases, with outer surface of textile materials, of man-made fibers. The rate of duty will be 17.6% *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/>.

Subheading 4202.92.9026, HTSUSA, falls within textile category 670. 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. 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:

New York Ruling Letter F80907, dated January 6, 2000, is hereby revoked. In accordance with 19 U.S.C. §1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

Sincerely,

IEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division


AGENCY INFORMATION COLLECTION ACTIVITIES:**Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers (CDSOA)**

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

ACTION: 30-Day notice and request for comments; Revision of an existing information collection: 1651-0086.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Procedures. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (75 FR 16493) on April 1, 2010, allowing for a 60-day comment period. One comment was received. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 26, 2010.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland

Security, and sent via electronic mail to oira_submission@omb.eop.gov or faxed to (202) 395-5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104-13). Your comments should address one of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
2. Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers (CDSOA)

OMB Number: 1651-0086

Form Number: 7401

Abstract: This collection of information is required to implement the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA). This Act prescribes the administrative procedures, including the time and manner, under which antidumping and countervailing duties assessed on imported products are distributed to affected domestic producers that petitioned for or supported the issuance of the order under which the duties were assessed. The amount of any distribution afforded to these domestic producers is based upon certain qualifying expenditures that they incur after the issuance of the order or finding. This distribution is known as the continued dumping and subsidy offset. The claims process for the CDSOA program is provided for in 19 CFR 159.61 and 159.63.

CBP Form 7401 captures the information from claimants that CBP needs to determine how the distributions are made. This form is published in the Federal Register each year in order to inform claimants that they can make claims under the CDSOA program and also

provide them with a copy of the form. The form can also be submitted electronically through www.pay.gov.

In order to expedite the distribution process, CBP proposes to add two data elements to both the paper form and the electronic form, including: “Start Date of Qualifying Expenditures” and “End Date of Qualifying Expenditures”.

Current Actions: This submission is being made to extend the expiration date with a revision to Form 7401 and to the on-line application.

Type of Review: Revision and extension of an existing information collection.

Affected Public: Businesses

Estimated Number of Respondents: 2000

Estimated Time per Respondent: 1 hour

Estimated Total Annual Burden Hours: 2000

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-1177, at 202-325-0265.

Dated: June 21, 2010

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

