

# U.S. Customs Service

## *General Notices*

### COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 12-2002)

AGENCY: U.S. Customs Service, Department of the Treasury.

SUMMARY: The copyrights, trademarks, and trade names recorded with the U.S. Customs Service during the month of December 2002. The last notice was published in the CUSTOMS BULLETIN on December 26, 2002.

Corrections or information to update files may be sent to U.S. Customs Service, IPR Branch, 1300 Pennsylvania Avenue, N.W., Mint Annex, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Joanne Roman Stump, Chief, Intellectual Property Rights Branch, (202) 572-8710.

Dated: January 17, 2003.

JOANNE ROMAN STUMP  
*Chief,*  
*Intellectual Property Rights Branch.*

The list of recordations follow:

U.S. CUSTOMS SERVICE  
IPR RECORDATIONS ADDED IN DECEMBER 2002

01/06/2003  
14:09:58

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TNM OR MSK	OWNER NAME	RES
COP0200221	20021203	20221203	INFINITY WIND SCULPTURE	NEIL SATER, DBA WIND WONDERS	N
COP0200222	20021203	20221203	DOUBLE INFINITY WIND SCULPTURE	NEIL SATER, DBA WIND WONDERS	N
COP0200223	20021211	20221211	MAGGIE THE MODEL, ITEM # 21512	TOY CENTURY INDUSTRIAL CO., LTD.	N
COP0200224	20021211	20221211	OLIVERA COLLECTION	ESSEX MANUFACTURING, INC.	N
COP0200225	20021212	20221212	315	DANA BRAUN INCORP. DBA SARAH ARI	N
COP0200226	20021212	20221212	724	DANA BRAUN INCORP. DBA SARAH ARI	N
COP0200227	20021216	20221216	REVO STYLER PRODUCT PACKAGING (DIRECT MARKETING)	REVOLUTIONARY PRODUCTS, INC.	N
COP0200228	20021216	20221216	FROM WILD TO STYLED IN LESS THAN 10 MINUTES (RETAIL)	REVOLUTIONARY PRODUCTS, INC.	N
COP0200229	20021216	20221216	REVO STYLER PRODUCT PACKAGING (RETAIL)	REVOLUTIONARY PRODUCTS, INC.	N
COP0200230	20021216	20221216	SECRETS TO PERFECT HAIR VIDEO BOX (RETAIL)	REVOLUTIONARY PRODUCTS, INC.	N
COP0200231	20021217	20221217	566	DANA BRAUN INC. DBA SARAH ARIZON	N
COP0200232	20021217	20221217	594	DANA BRAUN INC. DBA SARAH ARIZON	N
COP0200233	20021217	20221217	201	DANA BRAUN INC. DBA SARAH ARIZON	N
COP0200234	20021217	20221217	745	DANA BRAUN INC. DBA SARAH ARIZON	N
COP0200235	20021217	20221217	583	DANA BRAUN INC. DBA SARAH ARIZON	N
COP0200236	20021217	20221217	622	DANA BRAUN INC. DBA SARAH ARIZON	N
COP0200237	20021217	20221217	510	DANA BRAUN INC. DBA SARAH ARIZON	N
COP0200238	20021217	20221217	579	DANA BRAUN INC. DBA SARAH ARIZON	N
COP0200239	20021217	20221217	810	DANA BRAUN INC. DBA SARAH ARIZON	N
COP0200240	20021217	20221217	535	DANA BRAUN INC. DBA SARAH ARIZON	N
COP0200241	20021218	20221218	LUCKY CRANE	FU YUAN INTERNATIONAL, INC.	N
COP0200242	20021218	20221218	GARDEN LADY	FU YUAN INTERNATIONAL, INC.	N
COP0200243	20021218	20221218	BANQUET	FU YUAN INTERNATIONAL, INC.	N
COP0200244	20021218	20221218	BAMBOO BIRD	FU YUAN INTERNATIONAL, INC.	N
COP0200245	20021226	20221226	MICROPETS (78.3210) (CHOP)	TOMY CORPORATION	N
COP0200246	20021226	20221226	MICRO PETS	TOMY CORPORATION	N
COP0200247	20021226	20221226	MICROPETS (78.3209) (GORK)	TOMY CORPORATION	N
COP0200248	20021226	20221226	MICROPETS (78.3208) (JUMA)	TOMY CORPORATION	N
COP0200249	20021226	20221226	MICROPETS (78.3207) (NIP)	TOMY CORPORATION	N
COP0200250	20021226	20221226	MICROPETS (78.3206) (OAK)	TOMY CORPORATION	N
COP0200251	20021226	20221226	MICROPETS (78.3205) (RALPHY)	TOMY CORPORATION	N
COP0200252	20021226	20221226	MICROPETS (78.3204) (TANK)	TOMY CORPORATION	N
COP0200253	20021226	20221226	MICROPETS (78.3203) (TUG)	TOMY CORPORATION	N
COP0200254	20021226	20221226	MICROPETS (78.3202) (SKY)	TOMY CORPORATION	N
COP0200255	20021226	20221226	MICROPETS (78.3201) (SNOT)	TOMY CORPORATION	N
COP0200256	20021226	20221226	MICROPETS (78.3200) (TUCK)	TOMY CORPORATION	N
COP0200257	20021226	20221226	MICROPETS (78.3199) (KUDA)	TOMY CORPORATION	N
COP0200258	20021226	20221226	MICROPETS (78.3198) (BOB)	TOMY CORPORATION	N
COP0200259	20021226	20221226	MICROPETS (78.3197) (YUK)	TOMY CORPORATION	N
COP0200260	20021226	20221226	MICROPETS (78.3196) (CHUMSLEY)	TOMY CORPORATION	N
COP0200261	20021226	20221226	MICROPETS (78.3195) (SUMO)	TOMY CORPORATION	N
COP0200262	20021226	20221226	MICROPETS (78.3194) (COCO)	TOMY CORPORATION	N
COP0200263	20021226	20221226	MICROPETS (78.3193) (MOSHI)	TOMY CORPORATION	N
COP0200264	20021226	20221226	MICROPETS (78.3192) (BONGO)	TOMY CORPORATION	N
COP0200265	20021226	20221226	MICROPETS (78.3191) (KUMA)	TOMY CORPORATION	N
COP0200266	20021226	20221226	MICROPETS (78.3191) (SIREN)	TOMY CORPORATION	N

REC NUMBER	EFF DT	EXP DT	NAME OF COP., TMK, TMM OR MSK	OWNER NAME	RES
TKK0200969	20021204	20120514	VERMILL	DELTA PERFUME HOUSE, INC.	N
TKK0200970	20021204	20120618	MISHMASH	TOO, INC.	Y
TKK0200971	20021204	20120618	MISHMASH	TOO, INC.	Y
TKK0200972	20021204	20120219	XLR	WOLFF SYSTEM PATENT AG	N
TKK0200973	20021204	20110911	MAXXIMA	PANDR CORPORATION	N
TKK0200974	20021204	20091205	MAXXIMA	PANDR CORPORATION	N
TKK0200975	20021204	20120922	ORIGINAL BLUES CLASSICS & DESIGN	FANTASY INC.	N
TKK0200976	20021206	20080620	RAY-BAN (SCRIPT) DESIGN	LUXOTTICA LEASING S.P.A.	N
TKK0200977	20021210	20120407	BUICK	GENERAL MOTORS CORPORATION	N
TKK0200978	20021210	20120630	PONTIAC EMBLEM	GENERAL MOTORS CORPORATION	N
TKK0200979	20021210	20120825	PONTIAC AND EMBLEM	GENERAL MOTORS CORPORATION	N
TKK0200980	20021210	20111210	SATURN DESIGN	GENERAL MOTORS CORPORATION	N
TKK0200981	20051210	20120109	SAURIN DESIGN	GENERAL MOTORS CORPORATION	N
TKK0200982	20051210	20120109	GM STYLIZED	GENERAL MOTORS CORPORATION	N
TKK0200983	20051210	20130102	OLDSMOBILE	GENERAL MOTORS CORPORATION	N
TKK0200984	20021211	20100111	CHROME HEARTS (STYLIZED)	GENERAL MOTORS CORPORATION	N
TKK0200985	20021211	20100808	CHROME HEARTS (STYLIZED)	CHROME HEARTS, INC.	N
TKK0200986	20021211	20090105	CHROME HEARTS (STYLIZED)	CHROME HEARTS, INC.	N
TKK0200987	20021211	20071202	CHROME HEARTS (STYLIZED)	CHROME HEARTS, INC.	N
TKK0200988	20021211	20090105	CHROME HEARTS (STYLIZED)	CHROME HEARTS, INC.	N
TKK0200989	20021211	20121124	DUNHILL (STYLIZED LETTERING)	CHROME HEARTS, INC.	N
TKK0200990	20021211	20100520	DUNHILL (PLAIN BLOCK LETTERING)	ALFRED DUNHILL LIMITED	N
TKK0200991	20021211	20100704	DUNHILL (STYLIZED LETTERING)	ALFRED DUNHILL LIMITED	N
TKK0200992	20021211	20120605	DESIGN	ALFRED DUNHILL LIMITED	N
TKK0200993	20021211	20121020	LOCMAN DESIGN (BLOCK LETTERING)	ETIENNA AIGNER, INC.	N
TKK0200994	20021211	20080616	NAIL FETISH	LOCMAN S.P.A.	N
TKK0200995	20021211	20080616	NAIL FETISH	FINANZ ST. HONORE, B.V.	N
TKK0200996	20021211	20110106	FETISH	FINANZ ST. HONORE, B.V.	N
TKK0200997	20021211	20111006	B (STYLIZED)	FINANZ ST. HONORE, B.V.	N
TKK0200998	20021211	20111225	B (STYLIZED)	FINANZ ST. HONORE, B.V.	N
TKK0200999	20021211	20111225	KC (STYLIZED)	FINANZ ST. HONORE, B.V.	N
TKK0201000	20021211	20111225	SE (STYLIZED)	FINANZ ST. HONORE, B.V.	N
TKK0201001	20021211	20111225	SE (STYLIZED)	FINANZ ST. HONORE, B.V.	N
TKK0201002	20021212	20110630	ASTROS	PITTSBURGH ASSOCIATES	N
TKK0201003	20021212	20110715	PHILLIES	PITTSBURGH ASSOCIATES	N
TKK0201004	20021212	20110724	ROYALS	PITTSBURGH ASSOCIATES	N
TKK0201005	20021212	20110319	ORIOLES	PITTSBURGH ASSOCIATES	N
TKK0201006	20021212	20111222	NY (STYLIZED)	PITTSBURGH ASSOCIATES	N
TKK0201007	20021212	20120226	A (STYLIZED)	PITTSBURGH ASSOCIATES	N
TKK0201008	20021212	20080623	BCI	PITTSBURGH ASSOCIATES	N
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TKK0201012	20021212	20061104	HUMATROPE	PITTSBURGH ASSOCIATES	N
TKK0201013	20021212	20031026	LA SENZA	PITTSBURGH ASSOCIATES	N
TKK0201014	20021212	20060820	LA SENZA	PITTSBURGH ASSOCIATES	N
TKK0201015	20021212	20110519	ANBESOL	PITTSBURGH ASSOCIATES	N
TKK0201016	20021212	20110226	ADWILL	PITTSBURGH ASSOCIATES	N
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TKK0201120	20021212	20100712	PIEFARPP	PITTSBURGH ASSOCIATES	N
TKK020112					

U.S. CUSTOMS SERVICE  
IPR RECORDATIONS ADDED IN DECEMBER 2002

01/06/2003  
14:09:58

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TMN OR MSK	OWNER NAME	RES
TMK0201018	20021212	20050423	CALTRATE	WYETH	N
TMK0201019	20021212	20070106	FIBERCON	AMERICAN CYANAMID COMPANY	N
TMK0201020	20021215	20120803	SAKAYN RICE	SAKAR INTERNATIONAL INC.	N
TMK0201021	20021216	20090518	CINGULAR	GUANGXI CEREALS, OILS & FOODSTUF	N
TMK0201022	20021216	20080120	ROOTS	CINGULAR WIRELESS LLC	N
TMK0201023	20021216	20030424	MONTANA	BATMARK LIMITED	N
TMK0201024	20021216	20061209	PRESS & GO	BATMARK LIMITED	N
TMK0201025	20021216	20110420	HARLEY-DAVIDSON	FINANZ ST. HONORE B.V.	N
TMK0201026	20021216	20110420	STERLING	H-D MICHIGAN, INC.	N
TMK0201027	20021216	20110420	PRIVA	KOHLER CO.	N
TMK0201028	20021216	20111218	GIANFRANCO FERRE (STYLIZED)	USHODAYA ENTERPRISES LIMITED	N
TMK0201029	20021216	20121110	GIANTS	GIANFRANCO FERRE, S.P.A.	N
TMK0201030	20021216	20111022	YANKEES	NEW YORK YANKEES PARTNERSHIP	N
TMK0201031	20021216	20120114	PEDESTRIAN SHOES AND DESIGN	PEDESTRIAN CORPORATION	N
TMK0201032	20021217	20120713	LV (& DESIGN)	LOUIS VUITTON MALLETIER	N
TMK0201033	20021217	20110825	LOUIS VUITTON MALLETIER A PARIS	LOUIS VUITTON MALLETIER	N
TMK0201034	20021217	20110507	LV (HANDBAG)	LOUIS VUITTON MALLETIER	N
TMK0201035	20021217	20110709	LV (& DESIGN)	LOUIS VUITTON MALLETIER	N
TMK0201036	20021217	20110613	LV (& DESIGN)	LOUIS VUITTON MALLETIER	N
TMK0201037	20021217	20040222	DESERT EAGLE	LOUIS VUITTON MALLETIER	N
TMK0201038	20021217	20061608	DESIGN (EAGLE)	LOUIS VUITTON MALLETIER	N
TMK0201039	20021217	20120824	DESIGN (ALLIGATOR)	LOUIS VUITTON MALLETIER	N
TMK0201040	20021217	20120526	SUPER-MAX	MAGNUM RESEARCH INC.	N
TMK0201041	20021217	20081117	DORCO	MAGNUM RESEARCH INC.	N
TMK0201042	20021217	20051202	DESIGN (CONTAINER)	LACOSTE INTERNATIONAL PVT. LTD.	N
TMK0201043	20021217	20050711	LAVA	DORCO CO., LTD.	N
TMK0201044	20021217	20101107	WD-40	WD-40 MANUFACTURING COMPANY	N
TMK0201045	20021217	20111202	WD-40	WD-40 MANUFACTURING COMPANY	N
TMK0201046	20021217	20050525	WD-40	WD-40 MANUFACTURING COMPANY	N
TMK0201047	20021217	20060813	TANO	WD-40 MANUFACTURING COMPANY	N
TMK0201048	20021218	20120521	MACROSS	TANO AUTOMATION, INC.	N
TMK0201049	20021218	20080922	GEL	MACROSS CORPORATION	N
TMK0201050	20021219	20040705	DESIGN (SPIRAL)	ASICS CORPORATION	N
TMK0201051	20021219	20051024	GELCS & DESIGN	ASICS CORPORATION	N
TMK0201052	20021219	20050207	ASICS	ASICS CORPORATION	N
TMK0201053	20021219	20080922	DESIGN	ASICS CORPORATION	N
TMK0201054	20021219	20041227	GEL	ASICS CORPORATION	N
TMK0201055	20021219	20030504	ASICS	ASICS CORPORATION	N
TMK0201056	20021219	20120108	ASICS	ASICS CORPORATION	N
TMK0201057	20021219	20040410	DESIGN (STRIPE CIRCLE)	ASICS CORPORATION	N
TMK0201058	20021219	20070725	ONITSUKA TIGER	ASICS CORPORATION	N
TMK0201059	20021219	20090909	TIGER	ASICS CORPORATION	N
TMK0201060	20021219	20121106	C RED & DESIGN	ASICS CORPORATION	N
TMK0201061	20021226	20100422	X	CINCINNATI REDS, LLC	N
TMK0201062	20021231	20080124	NAVITAR	X NAVITAR, INC.	N

PAGE 4  
DETAIL

U.S. CUSTOMS SERVICE  
IPR RECORDATIONS ADDED IN DECEMBER 2002

01/06/2003  
14:09:58

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TMM OR MSK	OWNER NAME	RES
TMK0201067	20021231	20070617	THYMY SKIN GKL AND DESIGN	BIOTECHNE COMPLEX INC.	N
TMK0201068	20021231	20120305	HEY!HEY!HEY!	WILLIAM J. COSBY, JR.	N
TMK0201069	20021231	20120618	RUDY CHARACTER IMAGE	WILLIAM J. COSBY, JR.	N
TMK0201070	20021231	20120618	FAT ALBERT CHARACTER IMAGE	WILLIAM J. COSBY, JR.	N
TMK0201071	20021231	20120312	BUCKY CHARACTER IMAGE	WILLIAM J. COSBY, JR.	N
TMK0201072	20021231	20120312	MUSH MOUTH CHARACTER IMAGE	WILLIAM J. COSBY, JR.	N
TMK0201073	20021231	20120312	WEIRD HAROLD CHARACTER IMAGE	WILLIAM J. COSBY, JR.	N
TMK0201074	20021231	20120618	DOMB DONALD CHARACTER IMAGE	WILLIAM J. COSBY, JR.	N
TMK0201075	20021231	20120618	BILL CHARACTER IMAGE	WILLIAM J. COSBY, JR.	N
TMK0201076	20021231	20120618	FAT ALBERT CHARACTER IMAGE	WILLIAM J. COSBY, JR.	N
TMK0201077	20021231	20120319	HEY!HEY!HEY! AND FAT ALBERT CHARACTER IMAGE	WILLIAM J. COSBY, JR.	N

SUBTOTAL RECORDATION TYPE 109

TOTAL RECORDATIONS ADDED THIS MONTH 155

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

AGENCY: Customs Service, Treasury.

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 January 1, 2003, the interest rates for overpayments will be 4 percent for corporations and 5 percent for non-corporations, and the interest rate for underpayments will be 5 percent. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Ronald Wyman, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298-1200, extension 1349.

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 shall 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 2002-70 (*see*, 2002-50 IRB 1, dated December 16, 2002), the IRS determined the rates of interest for the calendar quarter beginning January 1, 2003, and ending March 31, 2003. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (3%) plus two percentage points (2%) for a total of five percent (5%). For corporate overpayments, the rate is the Federal short-term rate (3%) plus one percentage point (1%) for a total of four percent (4%). For overpayments made by non-corporations, the rate is the Federal short-term rate (3%) plus two percentage points (2%) for a total of five percent (5%). These interest rates are subject to change for the calendar quarter beginning April 1, 2003, and ending June 30, 2003.

For the convenience of the importing public and Customs 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>
Prior to				
070174	063075	6 %	6 %	
070175	013176	9 %	9 %	
020176	013178	7 %	7 %	
020178	013180	6 %	6 %	
020180	013182	12 %	12 %	
020182	123182	20 %	20 %	
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	033103	5 %	5 %	4 %

Dated: January 17, 2003.

ROBERT C. BONNER,  
*Commissioner of Customs.*

[Published in the Federal Register, January 23, 2003 (68 FR 3308)]

NOTICE OF CANCELLATION OF CUSTOMS BROKER LICENSE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker license and any and all associated local and national permits are canceled without prejudice.

<i>Name</i>	<i>License No.</i>	<i>Issuing Port</i>
Americana Brokers .....	11126	Great Falls

Dated: January 13, 2003.

JAYSON P. AHERN,  
*Assistant Commissioner,*  
*Office of Field Operations.*

[Published in the Federal Register, January 22, 2003 (68 FR 3094)]

NOTICE OF REVOCATION OF CUSTOMS BROKER PERMIT

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930 as amended (19 USC 1641) and the Customs Regulations [19 CFR 111.45(b)], the following Customs Broker Permit is revoked by operation of law.

<i>Name</i>	<i>Permit No.</i>	<i>Issuing Port</i>
Port Brokers, Inc. ....	3974	San Francisco

Dated: January 13, 2003.

JAYSON P. AHERN,  
*Assistant Commissioner,*  
*Office of Field Operations.*

[Published in the Federal Register, January 22, 2003 (68 FR 3095)]

RETRACTION OF REVOCATION NOTICE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: The following Customs broker licenses were erroneously included in a list of revoked Customs broker licenses.

<i>Name</i>	<i>License No.</i>	<i>Port Name</i>
Jamie Davila .....	06093	New York
GPS Custom House Brokerage, Inc. ....	07181	Washington, DC

Custom broker license nos. 06093 and 07181 remain valid.

Dated: January 13, 2003.

JAYSON P. AHERN,  
*Assistant Commissioner,*  
*Office of Field Operations.*

[Published in the Federal Register, January 22, 2003 (68 FR 3094)]

CANCELLATION OF CUSTOMS BROKER LICENSE  
 DUE TO DEATH OF THE LICENSE HOLDER

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following individual Customs broker license and any and all associated permits have been cancelled due to the death of the broker:

<i>Name</i>	<i>License No.</i>	<i>Port Name</i>
Horacio Espinoza .....	06699	Houston

Dated: January 13, 2003.

JAYSON P. AHERN,  
*Assistant Commissioner,*  
*Office of Field Operations.*

[Published in the Federal Register, January 22, 2003 (68 FR 3095)]

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, DC, January 22, 2003.*

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

MICHAEL T. SCHMITZ,  
*Assistant Commissioner,*  
*Office of Regulations and Rulings.*

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PROPOSED REVOCATION OF RULING LETTER AND  
REVOCATION OF TREATMENT RELATING TO TARIFF  
CLASSIFICATION OF FROG TOOL

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of ruling letter and treatment relating to tariff classification of a Frog Tool.

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 intends to revoke a ruling letter pertaining to the tariff classification of a Frog Tool under the Harmonized Tariff Schedule of the United States ("HTSUS"). Customs also intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before March 7, 2003.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the U.S. Customs Service, 799 9<sup>th</sup> Street, N.W., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, General Classification Branch, (202) 572-8780.

## 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 Customs 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 Customs 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 Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs intends to revoke a ruling letter pertaining to the classification of a Frog Tool. Although in this notice Customs is specifically referring to one ruling, NY D89007, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases 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 Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

In NY D89007 dated March 11, 1999, set forth as Attachment A to this document, Customs classified the Frog Tool in subheading 8205.90.00, HTSUS, as: "Sets of articles of two or more of the foregoing subheadings."

It is now Customs position that the Frog Tool is classified as a composite good in subheading 8204.11.00, HTSUS, as: "Hand operated-spanners and wrenches (including torque meter wrenches but not including tap wrenches); socket wrenches, with or without handles, drives or extensions; base metal parts thereof: Hand-operated spanners and wrenches, and parts thereof: Nonadjustable, and parts thereof." Proposed HQ 966110 revoking NY D89007 is set forth as Attachment B.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to revoke NY D89007 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 HQ 966110. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

Dated: January 15, 2003.

JOHN G. BLACK,  
(for Myles B. Harmon, Director,  
Commercial Rulings Division.)

[Attachments]

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[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
*New York, NY, March 11, 1999.*  
CLA-2-82:RR:NC:115 D89007  
Category: Classification  
Tariff No. 8204.20.0000

MR. SCOTT W. ASHLEY  
PBB GLOBAL LOGISTICS  
*434 Delaware Avenue  
Buffalo, NY 14202*

Re: The tariff classification of a multi-functional tool from Germany.

DEAR MR. ASHLEY:

In your letter dated March 4, 1999 you requested a tariff classification ruling on behalf of your client Great American Tool.

The item is a multi-functional tool called a Frog Tool. The name is derived from the shape of the tool. The fifteen functions are: 3/16" Allen Wrench, #2 Phillips Screwdriver, #25 Torx Bit, 1/4" Acc. Bit Drive, 3/8" Square Drive, 7/16" Wrench, 1/2" Wrench, .028 Plug Gap Tool, 0.32 Plug Gap Tool, Bottle Opener, Wire Stripper, .036 Plug Gap Tool, Box Cutter, #15 Torx Bit and a Slotted Screwdriver.

The applicable subheading for the multi-functional-tool will be 8205.90.0000/8204.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for

Sets of articles of two or more of the foregoing subheadings. The rate of duty applicable to that article in the set subject to the highest rate of duty. Socket wrenches, with or without handles, drives and extensions, and parts thereof \* \* \* is the item with the highest rate of duty. The applicable subheading for the Socket wrench will be 8204.20.0000, Harmonized Tariff Schedule of the United States (HTS). The rate of duty will be 9% ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Melvyn Birnbaum at 212-637-7017.

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

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[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
*Washington, DC.*

CLA-2 RR:CR:GC 966110 GOB  
Category: Classification  
Tariff No. 8204.11.00

DEBBIE CLUNE  
PBB GLOBAL LOGISTICS  
*670 Young Street*  
*Tonawanda, NY 14150*

Re: Revocation of NY D89007; Frog Tool; Multi-Purpose Tool.

DEAR MS. CLUNE:

This letter is with respect to NY D89007 dated March 11, 1999, issued to PBB Global Logistics on behalf of the Great American Tool Company by the Director, National Commodity Specialist Division.

*Facts:*

In NY D89007 the article at issue was a Frog Tool, which was described as follows:

The item is a multi-functional tool called a Frog Tool. The name is derived from the shape of the tool. The fifteen functions are: 3/16" Allen Wrench, #2 Phillips Screwdriver, #25 Torx Bit, 1/4" Acc. Bit Drive, 3/8" square drive, 7/16" Wrench, 1/2" Wrench, .028 Plug Gap Tool, 0.32 Plug Gap Tool, Bottle Opener, Wire Stripper, .036 Plug Gap Tool, Box Cutter, #15 Torx Bit and a Slotted Screwdriver.

In NY D89007 Customs classified the Frog Tool in subheading 8205.90.00, Harmonized Tariff Schedule of the United States ("HTSUS"), as: "Sets of articles of two or more of the foregoing subheadings." The rate of duty for subheading 8205.90.00, HTSUS, is: "The rate of duty applicable to that article in the set subject to the highest rate of duty." That rate was found to be the rate for subheading 8204.20.00, HTSUS.

We have reviewed this classification and have determined that it is incorrect. This ruling sets forth the correct classification.

We note that the composition of the Frog Tool has changed slightly based upon information obtained recently from the Great American Tool Company Internet site. The Great American Tool Company Internet site describes the Frog Tool to be of durable, stainless steel construction and 4.125" in length and 1.75" in width. It is a primarily flat object with many of the components protruding from it. The Frog Tool includes: a straight bit screwdriver; #2 Phillips® bit; 9/16" wrench; 1/2" wrench; 7/16" wrench; 14 mm wrench; 12 mm wrench; 1/4" hex drive; 3/8" square drive; 1/4" square drive; .035 plug gap tool; .032 plug gap tool; .030 plug gap tool; valve core tool; and #25 torx® bit.

In correspondence with Customs, you indicated that the Frog Tool, with the components as described in NY D89007, was never imported due to manufacturing issues. You request that our classification ruling reflect the current composition of the Frog Tool.

*Issue:*

What is the classification under the HTSUS of the Frog Tool?

*Law and Analysis:*

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (“GRI’s”). 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 GRI’s may then be applied. GRI 2 is not applicable here.

GRI 3 provides in pertinent part as follows:

When, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

EN (X) to GRI 3(b) provides:

For the purposes of this Rule, the term “goods put up in sets for retail sale” shall be taken to mean goods which:

(a) consist of at least two different articles which are, *prima facie*, classifiable in different headings \* \* \*

(b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and

(c) are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).

We find that the Frog Tool is not a “set put up for retail sale” within the meaning of GRI 3 because it does not meet the definition stated in EN (X) to GRI 3(b). Because it is one article, it does not meet the requirement that it consist of at least two articles. Therefore, because the Frog Tool is not a set put up for retail sale, it is not classified in subheading 8205.90.00, HTSUS.

We next examine the issue of whether the Frog Tool is a composite good within the meaning of the term in GRI 3(b). EN (IX) to GRI 3(b) provides:

For the purposes of this Rule, composite goods made up of different components shall be taken to mean not only those in which the components are attached to each other to form a practically inseparable whole but also those with separable components, **provided** these components are adapted one to the other and are mutually complementary and that together they form a whole which would not normally be offered for sale in separate parts. [Emphasis in original.]

We find that the Frog Tool is a composite good because it meets the terms of EN (IX) to GRI 3(b), i.e., the components are attached to each other to form a practically inseparable whole; they are adapted one to the other and are mutually complementary; and they form a whole, the specific components of which would not normally be offered for sale in separate parts. The components would not normally be offered for sale in separate parts because they are not detachable from the Frog Tool. This finding is consistent with NY 886357 dated July 15, 1993 where Customs found a multi-purpose tool (a “Handy-Plier Versatool”) to be a composite good; and NY F85958 dated May 9, 2000, where Customs found a multi-purpose tool kit (a “wallet card tool”) to be a composite good.

Therefore, the Frog Tool is classified pursuant to GRI 3. The five wrenches and the three drives are provided for in heading 8204, HTSUS; the screwdriver (with the attached

bits) is provided for in heading 8205 HTSUS; and the three plug gap tools are provided for in heading 9031, HTSUS. Pursuant to GRI 3(a), the various components of the Frog Tool are regarded as equally specific. Pursuant to GRI 3(b), the essential inquiry is which component provides the Frog Tool with its essential character. We find that the essential character of the Frog Tool is provided by the five wrenches which predominate in number vis-a-vis the other components. The wrenches are classified in subheading 8204.11.00, HTSUS, as: "Hand operated-spanners and wrenches (including torque meter wrenches but not including tap wrenches); socket wrenches, with or without handles, drives or extensions; base metal parts thereof: Hand-operated spanners and wrenches, and parts thereof: Nonadjustable, and parts thereof." Accordingly, at GRI 3(b), the Frog Tool is classified in subheading 8204.11.00, HTSUS.

*Holding:*

At GRI 3(b), the Frog Tool is classified in subheading 8204.11.00, HTSUS, as: "Hand operated-spanners and wrenches (including torque meter wrenches but not including tap wrenches); socket wrenches, with or without handles, drives or extensions; base metal parts thereof: Hand-operated spanners and wrenches, and parts thereof: Nonadjustable, and parts thereof."

*Effect on Other Rulings:*

NY D89007 is revoked.

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

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PROPOSED REVOCATION OF RULING LETTER AND  
REVOCATION OF TREATMENT RELATING TO TARIFF  
CLASSIFICATION OF PIPE FITTING NUTS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of ruling letter and treatment relating to tariff classification of certain pipe fitting nuts.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling letter pertaining to the tariff classification of certain pipe fitting nuts under the Harmonized Tariff Schedule of the United States ("HTSUS"). Customs also intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before March 7, 2003.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the

U.S. Customs Service, 799 9<sup>th</sup> Street, N.W., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, General Classification Branch, (202) 572-8780.

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 Customs 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 Customs 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 Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs intends to revoke a ruling letter pertaining to the classification of certain pipe fitting nuts. Although in this notice Customs is specifically referring to one ruling, HQ 965584, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases 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 Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States. Any person in-

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

In HQ 965584 dated September 24, 2002, set forth as Attachment A to this document, Customs classified the pipe fitting nuts in subheading 7318.19.00, HTSUS, as: "Screws, nuts, bolts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron and steel: Threaded articles: Other."

It is now Customs position that the pipe fitting nuts are classified in subheading 7307.19.90, HTSUS, as: "Tube or pipe fittings (for example, couplings, elbows, sleeves) of iron or steel: Cast fittings: Other: Other." Proposed HQ 965939 revoking HQ 965584 is set forth as Attachment B.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to revoke HQ 965584 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 HQ 965939. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

Dated: January 16, 2003.

JOHN G. BLACK,  
(for Myles B. Harmon, Director,  
Commercial Rulings Division.)

[Attachments]

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[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
*Washington, DC, September 24, 2002.*  
CLA-2 RR:CR:GC 965584 KBR  
Category: Classification  
Tariff No. 7318.19.00

MR. FREDERICK L. IKENSON, P.C.  
MR. LARRY HAMPEL  
*1621 New Hampshire Ave., N.W.*  
*Washington, DC 20009-2584*

Re: Pipe Fitting Nuts.

DEAR MR. IKENSON AND MR. HAMPEL:

This is in reference to your letter on behalf of Southland Metals, Inc., to the U.S. Customs Service, Director, National Commodity Specialist Division, New York, dated February 22, 2002, in which you requested a binding ruling, concerning the classification, under

the Harmonized Tariff Schedule of the United States (HTSUS), of cast iron pipe fitting nuts. Drawings, photographs and specifications of the products were submitted. You also submitted a sales brochure from Central Plastics Company, a distributor of the product. Your letter was referred to this office for reply. We regret the delay in responding.

In preparing this ruling, consideration was given to facts and legal arguments you presented during a teleconference with members of my staff on August 30, 2002, and additional submissions you supplied dated August 29, August 30, September 3, and September 9, 2002.

*Facts:*

The articles involved are cast iron malleable pipe fitting nuts. You state that Southland Metals has previously entered identical articles into the U.S., however, this ruling request is for prospective shipments.

According to the information provided, the pipe fitting nuts may be imported in a finished condition or, what is termed rough castings requiring some finish machining or threading. The articles are available in several styles which denote the profile and location of the wrench flats on the pipe fitting nut body. Depending on the articles actual application, the article may be referred to as a meter nut, swivel nut, eclipse nut, union nut, regulator nut, or compression nut. The pipe fitting nuts are produced and imported as individual items with distinct part numbers. The schematics submitted for several of the types of nuts show that the pipe fitting nuts are made from material meeting the American Society for Testing and Materials (ASTM) standard A-197. The schematics show that the threads of the pipe fitting nuts are manufactured to meet the American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) standard B1.1. Each type of nut has a 'shoulder' or 'flange' inside the rim of the nut, interrupting the threads and forming a 'stop'. This 'stop' is intended to catch an external 'shoulder' or 'flange' of another component with which the pipe fitting nut is intended to be combined.

You maintain the pipe fitting nuts should be classified in subheading 7318.16.00, HTSUS, as screws, bolts, nuts, and similar articles, of iron or steel, threaded articles, nuts. In the alternative, you maintain the articles should be classified in subheading 7325.99.10, HTSUS, as other articles of cast iron.

*Issue:*

Whether the subject pipe fitting nuts are goods of heading 7318, HTSUS.

*Law and Analysis:*

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

In interpreting the headings and subheadings, Customs looks to the Harmonized Commodity Description and Coding System Explanatory Notes (ENs). Although not legally binding, they provide a commentary on the scope of each heading of the HTSUS. It is Customs practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

7307	Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel:
7307.19	Other
7307.19.90	Other
7318	Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel:
	Threaded articles:
7318.16.00	Nuts
7318.19.00	Other
7325	Other cast articles of iron or steel:
	Other:
7325.99	Other:

7325.99.10 Of cast iron

The ENs for pipe fittings in heading 7307, HTSUS, state, in pertinent part, that the heading covers “fittings of iron or steel, mainly used for connecting the bores of two tubes together, or for connecting a tube to some other apparatus \* \* \*” The heading does not cover:

“articles used for installing pipes and tubes but which do not form an integral part of the bore (e.g., hangers, stays and similar supports which merely fix or support the tubes and pipes on walls, clamping or tightening band or collars (hose clips) used for clamping flexible tubing or hose to rigid piping, taps, connecting pieces, etc.) (heading 73.25 or 73.26).

The connection is obtained:

— by screwing, when using cast iron or steel threaded fittings;

\* \* \* \* \*

This heading therefore includes flat flanges and flanges with forged collars, elbows and bends and return bends, reducers, tees, crosses, caps and plugs, lap joint stub-ends, fittings for tubular railings and structural elements, off sets, multi-branch pieces, couplings or sleeves, clean out traps, nipples, unions, clamps and collars.

The heading excludes:

\* \* \* \* \*

(b) Bolts, nuts, screws, etc., suitable for use in the assembly of tube or pipe fittings (heading 73.18).

The ENs for heading 7318, HTSUS, in pertinent part, define what are considered “nuts” which are included in this heading as follows:

Bolts and nuts (including bolt ends), screw studs and other screws for metal, whether or not threaded or tapped, screws for wood and coach-screws are threaded (in the finished state) and are used to assemble or fasten goods so that they can readily be disassembled without damage.

\* \* \* \* \*

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

You argue that the ENs state that “lock nuts” are only “sometimes” used with bolts, and therefore nuts and bolts are not necessarily linked. You cite *NY E83406* (June 30, 1999) which found that lock nuts used to hold an adjustable, industrial, hydraulic tube fitting in the correct orientation when assembled into a port (valve, manifold, etc.), were classified in subheading 7318.16.00, HTSUS.

Initially, we note that if a consumer wants to purchase pipe fitting nuts, the consumer would locate this type of article with pipe fittings products. The consumer would not find the articles in the fastener (screws, bolts, nuts, etc.) section of a retail establishment. In a conversation with a member of my staff on August 26, 2002, you stated that the manufacturer of this product only deals in pipe fittings, not in fasteners.

A tariff term that is not defined in the HTSUS or described in the ENs is construed in accordance with its common or commercial meaning. *Nippon Kogaku (USA) Inc. v. United States*, 69 CCPA 89, 673 F.2d 380 (1982). Common and commercial meaning may be determined by consulting dictionaries, lexicons, scientific authorities and other reliable sources. *C.J. Tower & Sons v. United States*, 69 CCPA 128, 673 F.2d 1268 (1982). “Nut” is defined as “a perforated block usu[ally] of metal that has an internal screw thread and is used on a bolt or screw for tightening or holding something”. *Webster’s New Collegiate Dictionary*, G. & C. Merriam Co., 1979. “Nut” is defined by *The Random House College Dictionary*, Random House Inc., 1973, as “a block, usually of metal, perforated with a threaded hole so that it can be screwed onto a bolt to hold together objects through which the bolt passes.” *WordNet 1.6* defines “nut” as “a small square or hexagonal metal block with internal screw thread to be fitted onto a bolt”. *Cambridge Dictionaries Online, Cambridge International Dictionary of English*, defines “nut” as “a small piece of metal with a hole in it that a bolt can be screwed into”. *Cambridge Dictionaries Online, Cambridge Dictionary of American English*, defines “nut” as “a small ring of metal that a bolt (= a screw-like object) can be screwed into to hold something in place”. You submitted a definition from *Fastening Devices Inc. v. United States*, C.D. 2004 (1958) which cites the definition

from *Funk & Wagnalls New Standard Dictionary of the American Language* which states that a nut “may be fitted upon a bolt, screw, or the like”. You also cite a definition from *Construction Glossary An Encyclopedic Reference and Manual*, Stewart J. Stein, (2d ed., 1993), which states that nuts are a “[b]lock or sleeve having an internal thread designed to assemble with the external thread on a bolt, screw, stud or other threaded part.” The American Society of Mechanical Engineers (ASME), in their *American Standard, Glossary of Terms for Mechanical Fasteners*, uses the same definition as above.

You also submitted information concerning articles called “nuts” which are used on various articles which are not bolts. This information included drawings of various pipe fittings with various articles called “nuts” involved. You also included patents with various types of articles which list a “nut” as a component, but the listed nut is not attached to a bolt or screw. These patents included articles such as swivel joints, union joints, pipe connectors, fluid couplings, hydrants, modular piston rods, modular shower rods, pup joints, and others. We note that although these articles may be called “nuts” in a patent application, no evidence was presented that the articles were classified under the HTSUS as such.

In HQ 959570, dated December 20, 1996, Customs discussed the definition of “nut” in finding that, although the manufacturer called the article a “nut”, the article was not classifiable within heading 7318, HTSUS:

Counsel’s second contention that these articles are commonly and commercially referred to as nuts is apparently based on promotional literature which depicts the “Inner Cap Nut, Special,” on blueprints for an “Inner Cap Nut” and installation instructions bearing the same designation. An importer’s promotional literature and marketing profile are indications of how the importer views his product. Thus, they are of some probative value, but not conclusive of the common meaning of a term that is not otherwise defined in the legal text. Resort to dictionaries, lexicons and other reliable sources of information is appropriate. In this case, no dictionary or other lexicographic authority of which we are aware describes an article threaded both internally and externally as a nut. Moreover, the rulings counsel cites involve fasteners whose design and function are dissimilar to the inner cap nut.

However, in the case before us, the pipe fitting nuts are only threaded internally. There are no external threads on the pipe fitting nuts.

Customs has researched the ANSI/ASME and ASTM specifications for threads of pipe fittings and fasteners. The specification for threads of pipe fitting articles is ANSI/ASME B1.20. The specification for threads of fastener articles is ANSI/ASME B1.1. In a facsimile dated August 29, 2002, you submitted schematics which show the threads for the various pipe fitting nuts meet ANSI/ASME B1.1 standards.

However, the instant pipe fitting nuts are designed differently than a common nut. These pipe fitting nuts have an internal ‘shoulder’ or ‘flange’ which would stop an article being threaded through it from emerging at the opposite end of the pipe fitting nut. This internal shoulder precludes the pipe fitting nut from being used with a bolt, screw or stud. The pipe fitting nut operates by placing a free floating part which has an external shoulder inside the pipe fitting nut. The external shoulder of the internal part contacts the internal shoulder of the pipe fitting nut preventing the internal part from sliding all the way through the pipe fitting nut. A third component with external threads then goes over the internal part and screws into the pipe fitting nut which locks the internal and external shoulders together. Therefore, the clamping force of the pipe fitting nut is by the internal shoulder.

A common nut operates differently. The clamping force of the common nut is created by the outside face of the nut. The common nut compresses an article between its exterior face and the face of the bolt, screw or stud. Therefore, the pipe fitting nut and the common nut have different design features, different intended usages, different industry groups, are marketed in different departments and have no commercial interchangeability. Therefore, we find that the pipe fitting nuts are not classifiable as “nuts” under subheading 7318.16.00, HTSUS.

You also argue that the ENs for heading 7307, HTSUS, exclude the pipefitting nuts from that chapter. As previously noted, the EN states, in pertinent part, as follows:

This heading does not however cover articles used for installing pipes and tubes but which do not form an integral part of the bore (e.g., hangers, stays and similar supports which merely fix or support the tubes and pipes on walls, clamping or tightening bands or collars (hose clips) used for clamping flexible tubing or hose to rigid piping, taps, connecting pieces, etc.)(heading 37.25 or 73.26).

This EN specifically excludes from heading 7307, HTSUS:

(b) Bolts, nuts, screws, etc., suitable for use in the assembly of tube or pipe fittings (heading 73.18).

You state that the pipe fitting nuts do not form an integral part of the bore. You state the pipe fitting nuts are external to the pipes and never touch the substance that passes through the pipes. The pipe fitting nuts are just used to hold together the components of the pipe fittings. Therefore, you believe the pipe fitting nuts fall within exclusion (b), cited above, since they are used only for the assembly of the pipe fittings. We do not agree. The ENs do not state that the article must touch the substance which is being conveyed by the tubing. The pipe fitting nut is critical to lining up the pipe bores and connecting them together. The pipe could not be held together without the pipe fitting nut. The pipe fitting nut is not an 'auxiliary' part, such as a part that merely connects the pipe to a wall.

As to your alternative claim for classification under heading 7325, HTSUS, Customs ruled in HQ 732883 (August 1, 1990), that when all the components of a pipe fitting which included a casting of a nut, which needed finishing by boring and threading, were imported, they would be classified in heading 7307, HTSUS. However, if the imported components needed additional pieces to complete the pipe fitting, because there is no provision for parts of fittings, the imported castings would be classified as cast articles in heading 7325, HTSUS. In the instant case, the pipe fitting nuts are imported by themselves, without any other components of pipe fittings. Therefore, since there is no parts provision for fittings, heading 7307, HTSUS is not appropriate. However, the ENs for heading 7325, HTSUS, excludes "products falling in other headings of the Nomenclature \* \* \* or unfinished castings which require further working, but have the essential character of such finished products." As to heading 7325, HTSUS, GRI 2(a) permits us to expand the scope of a 4-digit heading to include incomplete or unfinished articles. In this regard, the ENs for GRI 2(a) state, in part, that the rule also applies to blanks unless these are specified in a particular heading. The term "blank" means an article, not ready for direct use, having the approximate shape or outline of the finished article or part, and which can only be used, other than in exceptional cases, for completion into the finished article or part.

Here we find that the pipe fitting nut castings conform to the cited EN description for blanks, in that they have the approximate shape or outline of a finished article and will be completed into the finished article by threading. Under GRI 2(a), the castings qualify as blanks having the essential character of other threaded articles of the type classifiable in subheading 7318.19.00, HTSUS. See HQ 959641 (June 23, 1997).

*Holding:*

In accordance with GRI 1, the pipe fitting nuts are provided for in heading 7318, HTSUS. They are classifiable in subheading 7318.19.00, HTSUS, as screws, bolts, nuts, and other similar articles, of iron or steel, threaded articles, other.

MARVIN AMERNICK,  
(for Myles B. Harmon, Acting Director,  
Commercial Rulings Division.)

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
Washington, DC.

CLA-2 RR:CR:GC 965939 GOB  
Category: Classification  
Tariff No. 7307.19.90

FREDERICK L. IKENSON  
LARRY HAMPEL  
LAW OFFICES OF FREDERICK L. IKENSON, P.C.  
1621 New Hampshire Ave., N.W.  
Washington, DC 20009-2584

Re: Revocation of HQ 965584; Pipe Fitting Nuts.

DEAR MESSRS. IKENSON AND HAMPEL:

This letter is in reply to your letter of September 27, 2002, on behalf of Southland Metals, Inc., in which you request that we reconsider HQ 965584 dated September 24, 2002. In reviewing this matter we have taken into consideration the points raised in all of your submissions, as well as those stated in the telephone conference of December 4, 2002.

We have reviewed the classification in HQ 965584 and have determined that it is incorrect. This ruling sets forth the correct classification.

*Facts:*

In HQ 965584, we classified certain pipe fitting nuts in subheading 7318.19.00, HTSUS, as: "Screws, nuts, bolts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron and steel: Threaded articles: Other."

In HQ 965584, we stated as follows:

According to the information provided, the pipe fitting nuts may be imported in a finished condition or, what is termed rough castings requiring some finish machining or threading. The articles are available in several styles which denote the profile and location of the wrench flats on the pipe fitting nut body. Depending on the articles actual application, the article may be referred to as a meter nut, swivel nut, eclipse nut, union nut, regulator nut, or compression nut. The pipe fitting nuts are produced and imported as individual items with distinct part numbers. The schematics submitted for several of the types of nuts show that the pipe fitting nuts are made from material meeting the American Society for Testing and Materials (ASTM) standard A-197. The schematics show that the threads of the pipe fitting nuts are manufactured to meet the American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) standard B1.1. Each type of nut has a 'shoulder' or 'flange' inside the rim of the nut, interrupting the threads and forming a 'stop'. This 'stop' is intended to catch an external 'shoulder' or 'flange' of another component with which the pipe fitting nut is intended to be combined.

In your submission of February 22, 2002, you stated in pertinent part as follows:

Regardless of application, the subject nuts are produced and imported as individual items, each having a distinct part number. That is, *e.g.*, a union nut is produced and imported without regard to the "head" and "tail" with which it ultimately may be used, a swivel nut similarly is produced and imported independent of the swivel with which it may be used, and a compression nut is produced an [sic] imported independent of the "nipple" with which it may be used.

*Issue:*

What is the classification under the HTSUS of the subject pipe fitting nuts?

*Law and Analysis:*

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). 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 GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes (“EN’s”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN’s 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.

The HTSUS provisions under consideration are as follows:

7307	Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel:
7307.19	Other
7307.19.90	Other
*	*      *      *      *      *      *      *
7318	Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel:
	Threaded articles:
7318.16.00	Nuts
7318.19.00	Other
*	*      *      *      *      *      *      *
7325	Other cast articles of iron or steel:
	Other:
7325.99	Other:
7325.99.10	Of cast iron

EN 73.07 provides in pertinent part as follows:

This heading covers fittings of iron or steel, mainly used for connecting the bores of two tubes together, or for connecting a tube to some other apparatus, or for closing the tube aperture. This heading **does not** however **cover** articles used for installing pipes and tubes but which do not form an integral part of the bore, e.g., hangers, stays and similar supports which merely fix or support the tubes and pipes on walls, clamping or tightening bands or collars \* \* \*

The connection is obtained:

— by screwing, when using cast iron or steel threaded fittings;

\*      \*      \*      \*      \*      \*      \*

This heading therefore includes \* \* \* unions \* \* \*

This heading **excludes**:

\*      \*      \*      \*      \*      \*      \*

(b) Bolts, nuts, screws, etc., suitable for use in the assembly of tube or pipe fittings (**heading 73.18**).  
[All emphasis in original.]

EN 73.18 provides in pertinent part as follows:

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

EN 73.25 provides in pertinent part as follows:

This heading covers **all cast** articles of iron or steel, not elsewhere specified or included.

\*      \*      \*      \*      \*      \*      \*

This heading **does not cover** castings which are products falling in other headings of the Nomenclature (e.g., recognisable parts of machinery or mechanical appliances) or unfinished castings which require further working but have the essential character of such finished products.

[All emphasis in original.]

Your primary claim is that the subject goods are classified in subheading 7318.16.00, HTSUS. Alternatively, you claim that the goods are classified in subheading 7325.99.10, HTSUS. Classification in heading 7307, HTSUS, has also been considered. Because heading 7325, HTSUS, covers all cast articles of iron or steel not elsewhere specified or in-

cluded (see EN 73.25), the goods will be provided for in heading 7325, HTSUS, only if they are described in that heading and if they are not provided for in heading 7307 or heading 7318.

#### *Heading 7318*

In HQ 965584 we classified the pipe fitting nuts in subheading 7318.19.00, HTSUS, based upon the finding that, “[u]nder GRI 2(a), the castings qualify as blanks having the essential character of other threaded articles of the type classifiable in subheading 7318.19.00, HTSUS.” We now believe that this classification is incorrect. Upon further consideration, we believe there is an insufficient basis for concluding that the subject pipe fitting nuts qualify as blanks having the essential character of other threaded articles of heading 7318. Please see the analysis below which differentiates the subject pipe fitting nuts from nuts of heading 7318, HTSUS.

The subject pipe fitting nuts are designed differently than common nuts. These pipe fitting nuts have an internal bearing surface ‘shoulder’ or ‘flange’ which would stop an article being threaded through it from emerging at the opposite end of the pipe fitting nut. This internal shoulder precludes the pipe fitting nut from being used with a bolt, screw or stud. The pipe fitting nut operates by placing a part which has an external shoulder inside the pipe fitting nut. The external shoulder of the internal part contacts the internal shoulder of the pipe fitting nut preventing the internal part from sliding all the way through the pipe fitting nut. A third component with external threads then goes over the internal part and screws into the pipe fitting nut which locks the internal and external shoulders, squeezing them together. Therefore, the clamping force of the pipe fitting nut is by the internal shoulder.

A common nut operates differently. The clamping force of the common nut is created by the outside face (external bearing surface) of the nut pressing against a washer or the surface of the article being assembled. The compression created by the face of the common nut holds the corresponding bolt, screw, or stud in place. The common nut performs its fastening function by holding the article in place by the compression which the exterior face creates with the assistance of the threaded bolt, screw, or stud. Therefore, the pipe fitting nut and the common nut have different design features, different intended usages, different industry groups, are marketed in different departments and have no commercial interchangeability. Accordingly, we find that the pipe fitting nuts are not classifiable as “nuts” under subheading 7318.16.00, HTSUS.

You have not put forth any facts or arguments which would cause us to amend any of the findings of HQ 965584 with respect to claimed classification in subheading 7318.16.00, HTSUS.

Accordingly, we find that the pipe fitting nuts are not described in heading 7318, HTSUS.

#### *Heading 7307*

With respect to classification of the goods in heading 7307, HTSUS, we find that certain of the language of EN 73.07 is critical to this issue. That language provides that heading 7307, HTSUS, “\* \* \* covers fittings of iron or steel, *mainly used for connecting the bores of two tubes together* \* \* \*” [Emphasis supplied.] We believe that the important inquiry is whether the subject pipe fitting nuts connect the bores of two tubes together. Documentation in the file, including illustrations, indicates that the pipe fitting nuts serve to connect other pipe fitting components, e.g., in the case of union nuts, the nuts serve to connect the head and the tail components which are in turn connected to the two pipes.<sup>1</sup> The documentation of record leads us to conclude that the subject pipe fitting nuts are used to connect the bores of two tubes together. Therefore, we find that the subject pipe fitting nuts are provided for in heading 7307, HTSUS. We find that they are classified in subheading 7307.19.90, HTSUS, as: “Tube or pipe fittings (for example, couplings, elbows, sleeves) of iron or steel: Cast fittings: Other: Other.”

<sup>1</sup> For example, *The Complete Illustrated Guide to Everything Sold in Hardware Stores* by Steve Ettlinger (1998; p. 516) describes the use of unions as follows:

**Description:** An assembly of one (sweat) or three (threaded) hex nuts. Its two halves are separated and screwed onto the ends of the pipes to be joined, then the larger, central hex nut is tightened down to join them.

**Use:** Connecting pipe sections of similar size that are expected to be disassembled or that are being fit into a position between two fixed pipes.

*Heading 7325*

Based upon our determination that the pipe fitting nuts are classified in subheading 7307.19.90, HTSUS, they are not described or classified in heading 7325, HTSUS. We note additionally that the pipe fitting nuts, which are threaded, do not qualify for heading 7325, HTSUS, because the fact that they are threaded indicates that they are advanced to the point where they can no longer be considered cast articles of heading 7325, HTSUS. In HQ 960782 dated May 13, 1998, we stated in pertinent part as follows:

The basic issue in this case is whether zinc coating a cast iron article, after the casting process is completed, advances the article so that it can no longer be considered a cast article of heading 7325, HTSUS. We have previously ruled on this issue (HQ 959315 dated October 1, 1996) and have affirmed that ruling in response to a request for reconsideration (HQ 960440 dated June 26, 1997). Customs position on this issue is as follows:

Heading 7325 covers all cast articles not elsewhere specified or included in the Nomenclature. Generally, cast articles result from molten blast furnace iron being bottom poured into a mold. After sufficient time for solidification and cooling, the castings are removed from the mold by a shakeout machine. The casting process is considered complete when surface imperfections are removed by blast cleaning, chipping, burning or combinations of these processes. In our opinion, applying a coating of zinc after the casting process is complete sufficiently advances these articles to the point where they can no longer be considered cast articles of heading 7325. This is consistent with Customs position under previous tariff nomenclatures, where galvanized or zinc coated cast iron nails were held to be classifiable as manufactures of metal rather than as castings of malleable iron. The rationale was that galvanizing was not a mere process incidental to the general foundry work; rather, it was an independent and additional process which advances the articles beyond the condition of castings. See T.D. 32506, 22 Treas. Dec. 806, dated May 6, 1912.

*Holding:*

The pipe fitting nuts are classified in subheading 7307.19.90, HTSUS, as: "Tube or pipe fittings (for example, couplings, elbows, sleeves) of iron or steel: Cast fittings: Other: Other."

*Effect on Other Rulings:*

HQ 965584 is revoked.

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

REVOCATION OF RULING LETTER AND REVOCATION OF  
TREATMENT RELATING TO THE TARIFF CLASSIFICATION  
OF AN INSULATED OR PADDED BACKPACK

AGENCY: U.S. Customs Service; Department of the Treasury.

ACTION: Notice of revocation of a tariff classification ruling letter and revocation of treatment relating to the classification of an insulated or padded backpack.

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 is revoking one ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of an insulated or padded backpack. Customs is also revoking any treatment previously accorded by it to substantially identical merchandise or transactions.

Notice of the proposed action was published in the CUSTOMS BULLETIN, Volume 36, Number 49, on December 4, 2002. One comment was received. The comment suggested that the merchandise was an insulated food and beverage bag. Attached to the comment was marketing literature from the importer's 2003 catalog.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after April 7, 2003.

FOR FURTHER INFORMATION CONTACT: J. Steven Jarreau, Textiles Branch: (202) 572-8817

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 emerged 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 Customs 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 Customs 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 Customs 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 New York Ruling Letter I84912 (Aug. 9, 2002) was published in the CUSTOMS BULLETIN, Volume 36, Number 49, on December 4, 2002. One comment was received. The comment suggested that the merchandise was an insulated food and beverage bag. Attached to the comment was marketing literature from the importer's 2003 catalog.

Although Customs refers in this notice to one New York Ruling Letter, this notice covers any rulings on this merchandise that may exist, but have not been specifically identified. Customs 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.*, a ruling letter, an internal advice memorandum or decision or a protest review decision) on the merchandise subject to this notice, which classified the merchandise contrary to this notice, should have advised Customs during the comment period. An importer's failure to have advised Customs of a specific interpretive ruling or decision classifying substantially identical merchandise not identified in the notice of proposed action, may raise issues of reasonable care on the part of the importer or its agent for importation of merchandise subsequent to the effective date of this notice.

The Customs Service, 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, is also revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of an importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling issued to a third party to importations of the same or similar merchandise, or an importer's or Customs previous interpretation of the HTSUSA. Any person involved with a substantially identical transaction and asserting a claim of treatment should have advised Customs during the notice period. An importer's failure to have advised Customs of a substantially identical transaction may raise issues of reasonable care on the part of the importer or its agent for importation of merchandise subsequent to the effective date this notice.

The Customs Service in New York Ruling Letter I84912 classified an insulated or padded backpack in subheading 4202.92.9026, HTSUSA. After reviewing that ruling, it is Customs determination that the ruling is in error and that insulated or padded backpacks are properly classified pursuant to General Rule of Interpretation 1 in subheading 4202.92.3020, HTSUSA. Headquarters Ruling Letter (HQ) 965875, revoking NY I84912, is set forth as an Attachment to this document.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is revoking NY I84912 and any other rulings not specifically identified, to reflect the proper classifi-

cation of the merchandise pursuant to the analysis set forth in HQ 965875. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions.

Headquarters Ruling Letter 965875 will be effective, in accordance with 19 U.S.C. 1625 (c), sixty (60) days after publication in the CUSTOMS BULLETIN.

Dated: January 17, 2003.

GREG DEUTSCH,  
(for Myles B. Harmon, Director,  
Commercial Rulings Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
*Washington, DC, January 17, 2003.*

CLA-2 RR:CR:TE 965875 jsj  
Category: Classification  
Tariff No. 4202.92.3020

PAULA M. CONNELLY, ESQ.  
MIDDLETON & SHRULL  
44 Mall Road  
Suite 208  
Burlington, MA 01803-4530

Re: Revocation of NY I84912 (Aug. 9, 2002); Insulated or Padded Backpack; Subheading 4202.92.3020, HTSUSA.

DEAR MS. CONNELLY:

The purpose of this correspondence is to respond to your request dated September 4, 2002. The correspondence in issue requested, on the behalf of your client, The GEM Group, Inc., reconsideration of New York Ruling Letter I84912 (Aug. 9, 2002).

The Customs Service, in NY I84912, classified the merchandise in issue in subheading 4202.92.9026, HTSUSA. Customs has determined, subsequent to reconsidering NY I84912, that the article is properly classified in subheading 4202.92.3020, HTSUSA. Customs is revoking NY I84912 and reclassifying the merchandise in accordance with the analysis set forth in this ruling letter.

This reconsideration and revocation is being issued subsequent to the following: (1) A review of your submissions dated September 4, 2002, and January 3, 2003; (2) An examination of the sample identified by the importer as a Gemline "Insulated Backpack," style MS-SS-9186; (3) A review of the 2002 Gemline catalog; (4) A review of the "Insulated Bags" section of the 2003 Gemline catalog; and (5) An examination of a hand-drawn front and back diagram of the backpack dated August 27, 2002.

Pursuant to section 625 (c), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)), notice of the proposed revocation of NY I84912 was published on December 4, 2002, in the CUSTOMS BULLETIN, Volume 36, Number 49.

*Facts:*

The article in issue, identified by GEM as an "insulated backpack," is approximately seventeen (17) inches in height, eleven (11) inches in width and five and three-fourths

(5<sup>3</sup>/<sub>4</sub>) inches in depth. The Customs Service is advised that the outer surface is composed of nylon textile fabric which an examination reveals to be woven. Customs further examination establishes that the article has a middle layer of plastic foam that is one-fourth (<sup>1</sup>/<sub>4</sub>) of an inch thick.

The backpack has one primary compartment with dimensions nearly equal to those of the entire pack. The backpack also has two flat compartments on the front that close by means of vertical zippers. A nylon mesh bottle holder is located on the lower aspect of one side of the pack.

The backpack has a carrying handle sewn to the top, rear aspect of the pack and also has two adjustable shoulder straps. The handle and adjustable or lower aspects of the shoulder straps are made of one (1) inch wide woven nylon webbing. The handle is eight and one-half (8<sup>1</sup>/<sub>2</sub>) inches long. The upper aspects of the shoulder straps are two (2) inches wide and have padding composed of the same material as found between the layers of nylon fabric, i.e., the one-fourth (<sup>1</sup>/<sub>4</sub>) of an inch thick plastic foam. Plastic clips permanently attached to the bottom aspect of the shoulder pads permit the user to adjust the nylon webbing shoulder strap length. Each complete shoulder strap, at maximum extension, measures approximately thirty-five (35) inches in length.

The adjustable aspects of the woven nylon webbing shoulder straps are sewn to two triangular-shaped pieces of material, one on each side of the lower body of the backpack. The triangular-shaped pieces of material extend one and one-half (1<sup>1</sup>/<sub>2</sub>) inches from the side of the backpack to the tip of the triangle.

*Issue:*

What is the classification, pursuant to the Harmonized Tariff Schedule of the United States Annotated, of the above-described insulated or padded backpack?

*Law and Analysis:*

The federal agency responsible for initially interpreting and applying the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is the U.S. Customs Service.<sup>1</sup> The Customs Service, in accordance with its legislative mandate, classifies imported merchandise pursuant to the General Rules of Interpretation (GRI) and the Additional U.S. Rules of Interpretation.<sup>2</sup>

General Rule of Interpretation 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.” *General Rule of Interpretation 1*. General Rule of Interpretation 1 further states that merchandise which cannot be classified in accordance with the dictates of GRI 1 should be classified pursuant to the other General Rules of Interpretation, provided the HTSUSA chapter headings or notes do not require otherwise. According to the Explanatory Notes (EN), the phrase in GRI 1, “provided such headings or notes do not otherwise require,” is intended to “make it quite clear that the terms of the headings and any relative Section or Chapter Notes are paramount.” *General Rules for the Interpretation of the Harmonized System, Rule 1, Explanatory Note (V)*.

The Explanatory Notes constitute the official interpretation of the Harmonized System at the international level. See Joint Explanatory Statement *supra* note 1, at 549. The Explanatory Notes, although neither legally binding nor dispositive of classification issues, do provide commentary on the scope of each heading of the HTSUSA. The EN are generally indicative of the proper interpretation of the headings. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989); *Lonza, Inc. v. United States*, 46 F.3d 1098, 1109 (Fed. Cir. 1995).

Commencing classification of the GEM backpack, in accordance with the dictates of GRI 1, the Customs Service examined the headings of the HTSUSA. Heading 4202, HTSUSA, provides for the classification of:

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,

<sup>1</sup> See 19 U.S.C. 1500 (West 1999) (providing that the Customs Service is responsible for fixing the final appraisement, classification and amount of duty to be paid); See also Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 100-576, at 549 (1988) reprinted in 1988 U.S. Code Cong. and Adm. News 1547, 1582 [hereinafter Joint Explanatory Statement].

<sup>2</sup> See 19 U.S.C. 1202 (West 1999); See generally, *What Every Member of The Trade Community Should Know About: Tariff Classification*, an Informed Compliance Publication of the Customs Service available on the World Wide Web site of the Customs Service at [www.customs.gov](http://www.customs.gov), search “Importing & Exporting” and then “U.S. Customs Informed Compliance Publications.”

**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).

Since backpacks are designated *eo nomine*, that is by name, in heading 4202, HTSUSA, and since *eo nomine* designations include all forms of the article in issue, the questions become “What merchandise did Congress intend to be considered a “backpack?”” and “Does the article submitted for classification by GEM fall within the Congressionally intended definition?”

The initial responsibility of the Customs Service is to examine the plain meaning of the statutory text. See *Marcor Dev. Corp. v. United States*, 926 F. Supp. 1124, 1129 (Ct. Int’l Trade 1996) citing *Trans-Border Customs Services v. United States*, 843 F. Supp. 1482, 1485 (Ct. Int’l Trade 1994). If the plain language of the heading establishes the clear and unambiguous intent of Congress, the classification inquiry at the heading level is complete. See *Id.* The meaning of a tariff term, absent contrary congressional intent, is one that is in accord with its common and popular understanding. See *Carl Zeiss, Inc. v. United States*, 195 F.3d 1375, 1379 (Fed. Cir. 1999).

It is the conclusion of the Customs Service, subsequent to a review of the tariff schedule, that Congress intended the term “backpack” to be understood in its common and popular meaning. A “backpack” is commonly understood to be a pack or knapsack worn on the back and used to carry personal effects which include equipment, clothing and food. Additional U.S. Note 1 to Chapter 42 specifically provides that “*travel, sports and similar bags*” of heading 4202, HTSUSA, “means goods \* \* \* of a kind designed for carrying clothing and other personal effects during travel, including backpacks \* \* \*.” *Additional U.S. Note 1, Ch. 42, HTSUSA.*

Since neither the tariff schedule nor the Explanatory Notes offer a definition of the term “backpack,” the Customs Service deemed it judicious to confirm the common and popular meaning by reviewing the definition of “backpack.” See generally *Carl Zeiss Id.* (providing that reference to dictionaries and other reliable sources are acceptable methods of construing tariff terms). It is the conclusion of Customs that words such as “backpack” are frequently not defined in the tariff schedule because they are of such common understanding that the reader may fully understand Congress’s intent without additional explanation.

A survey of respected dictionaries provides the following definitions of the word “backpack”:

- (1) “a pack carried on the back” \* \* \* “to carry a pack on the back: used esp. in hiking, camping, etc.” The Compact Edition of the Oxford English Dictionary, Vol. III, p. 45 (R.W. Burchfield, ed., Oxford at the Clarendon Press 1987);
- (2) “to carry (food or equipment) on the back esp. in camping \* \* \* to carry one’s food or equipment on the back esp. in camping.” Webster’s Third New International Dictionary of the English Language Unabridged (Philip Babcock Gove, Ph.D. ed., Merriam-Webster, Inc. 1986);
- (3) “a pack or knapsack, often of canvas or nylon, to be carried on one’s back \* \* \* a piece of equipment designed to be used while being carried on the back.” Random House Unabridged Dictionary (Stuart Berg Flexner ed., Random House, 2<sup>nd</sup> ed. 1983); and
- (4) “a pack or bundle of supplies to be carried on one’s back, often supported on a lightweight metal frame strapped to the body.” The Random House Dictionary of the English Language (Jess Stein ed., Random House 1973).

It is the conclusion of the Customs Service, subsequent to reviewing the referenced dictionaries, that the term “backpack” is commonly understood to be a pack or knapsack worn on the back and used to carry personal effects which include equipment, clothing and food. The common theme in the definitions is the transportation of personal effects, including food, clothing and equipment, and the manner in which the personal effects are transported.

Endeavoring to develop an even more in-depth understanding of the term “backpack” and appreciating that no single word of the tariff schedule should be read in isolation, it is noted that heading 4202, HTSUSA, does not simply reference “backpacks.” Heading 4202, HTSUSA, in addition to the numerous other types of containers enumerated, specifically references “knapsacks and backpacks.” (Emphasis added) *Heading 4202, HTSU-*

SA. Congress, by listing “knapsacks and backpacks” together, indicated an intent that knapsacks and backpacks should be understood together.

This understanding of the tariff schedule is supported by the definition of “knapsack” in The Oxford English Dictionary, as well as Webster’s New Collegiate Dictionary. “Knapsack” is defined in The Oxford English Dictionary as “[a] bag or case of stout canvas or leather, worn by soldiers, strapped to the back and used carrying necessities<sup>3</sup>; any similar receptacle used by travellers for carrying light articles.” The Compact Edition of the Oxford English Dictionary, Vol. I, p. 1544 (R.W. Burchfield, ed. 1987). Webster’s New Collegiate Dictionary defines “knapsack” as “a bag (of canvas or nylon) strapped on the back and used (as on a hike) for carrying supplies or personal belongings.” Webster’s New Collegiate Dictionary (Henry Bosley Woolf et al. eds., G. & C. Merriam Co. 1977).

The understanding that the terms knapsack and backpack are essentially synonymous is supported by the Court of Customs and Patent Appeals decision in *United States v. Standard Surplus Sales, Inc.*, 667 F.2d 1011 (C.C.P.A. 1981)<sup>4</sup>. The Court in *Standard Surplus* was called on to classify merchandise according to the Tariff Schedule of the United States (TSUS), the predecessor of the HTSUSA. The Court, in determining whether certain imported nylon bags were classifiable as sports equipment or as luggage, examined whether there was a distinction between knapsacks and backpacks. The conclusion drawn was that “knapsack” is a term that preceded the use of the word backpack, but beyond historical considerations, both terms refer to substantially identical merchandise used for carrying clothing and other personal effects and supplies on the back during travel.

It is, therefore, the decision of the Customs Service that Congress, when it enacted the Harmonized Tariff Schedule of the United States Annotated, intended the term “backpack” as employed in heading 4202, HTSUSA, to encompass packs or knapsacks worn on the back and used to carry personal effects, including equipment, clothing and food. Having developed an understanding of the congressionally intended definition of the tariff term “backpack,” the responsibility of the Customs Service turns to determining whether the backpack in issue falls within the meaning of the HTSUSA term.

It is the decision of Customs that the instant backpack comports with the congressionally intended definition of the phrase “knapsacks and backpacks” in heading 4202, HTSUSA. The instant article has the traditional shape of a backpack. It is designed and manufactured to carry personal effects while being worn on the user’s back. It is specifically noted that although the backpack has a handle on the rear aspect of the top, common among many backpacks, the handle is only designed to facilitate moving the pack very short distances. The padded shoulder straps and the adjustable nylon webbing aspect enable the backpack and its contents to be transported longer distances. It is additionally noted that, depending on how the pack is loaded, it could have a strong propensity to swing at an awkward angle if carried by the handle.

The simple innovation of providing insulation or padding to the body of the bag does not change the identity of this item as a backpack. See HQ 963377 (July 10, 2001); and HQ 964539 (Nov. 21, 2001). An *eo nomine* designation in the tariff schedule, without limitation or a showing of contrary congressional intent, includes all forms of the article. See *Robert Bosch Corp. v. United States*, 63 Cust. Ct. 96 (1969); *Nootka Packing Co. v. United States*, 22 C.C.P.A. 464, T.D. 47646 (1935).

The terms of heading 4202, HTSUSA, specifically identify the article in issue. No other HTSUSA heading nor any other *eo nomine* designation within heading 4202, HTSUSA, specifically describes the merchandise. The backpack presented by GEM is, therefore, classified in heading 4202, HTSUSA.

Continuing the classification of the GEM backpack, the article is classified in subheading 4202.92.3020, HTSUSA. Subheading 4202.92.3020, HTSUSA, provides for:

4202	Trunks, suitcases, vanity cases, attache cases * * * and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks * * * and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vul-
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<sup>3</sup> A “necessary” is defined by The Oxford English Dictionary as “indispensable, requisite, essential, needful; that cannot be done without.” The Compact Edition of the Oxford English Dictionary, Vol. I, p. 1905. (R. W. Burchfield, ed. 1987).

<sup>4</sup> See Joint Explanatory Statement supra note 1, at 549–50 (stating that decisions of the courts interpreting the TSUS are not dispositive in interpreting the HTSUSA, but should be considered on a case-by-case basis where the nomenclature is unchanged and no dissimilar interpretation is required).

canized fiber, or of paperboard, or wholly or mainly covered with such materials or with paper:

Other:

- 7202.92 With outer surface of sheeting of plastic or of textile materials:  
Travel, sports and similar bags:  
With outer surface of textile materials:
- 4202.92.30 Other,  
Other:  
Of man-made fibers:
- 4202.92.3020 Backpacks.

Counsel for GEM suggests that the backpack is an insulated “food and beverage bag” also classified in heading 4202, HTSUSA. The Customs Service, for the reasons expressed above, concludes otherwise. Customs particularly notes that while an insulated backpack and an insulated food and beverage bag may both be used to maintain the temperature of food and beverage during transport and temporary storage, the distinctive feature of a backpack is the manner in which the personal effects are carried. The unique feature of an insulated backpack that distinguishes it from a food and beverage bag is the fact that it is designed to be carried on the back of the user. The padded and adjustable shoulder straps suggest an item that will be used to transport personal effects over a greater distance than one would expect of an insulated food or beverage bag.

The Customs Service additionally notes the absence of information and features generally expected to be found in insulated food and beverage bags. The GEM backpack does have plastic foam between the inner and outer layers of nylon fabric and counsel does suggest that the plastic foam serves the purpose of insulation. Customs notes, however, that the plastic foam may function not only as insulation, but also as padding. Customs notes that the shoulder straps are padded with the identical plastic foam used in the body of the bag. Customs examination of the backpack does not confirm that the purpose of the plastic foam is to provide an insulative quality to maintain the temperature of food or beverages. The padding does provide the pack with shape and Customs will not speculate as to its primary purpose. GEM has provided no information addressing the ability of the plastic foam to perform as an insulator.

A feature often found in portable containers designed to maintain the temperature of food and beverages is a plastic coating or lining. GEM has not advised Customs of a coating on the nylon, which, if one does exist, would not appear to be able to prevent melting ice or condensation from seeping through the fabric. It is doubtful that the seams, which are only sewn and not heat-sealed, would prevent leakage. The backpack, as presented to Customs for classification, also lacks a permanent or removable liner that would serve to prevent leakage. *See HQ 964237 (May 22, 2002).*

Counsel for the importer suggests that reference be made to the tag attached to the sample article, as well as to the Gemline 2002 catalog to confirm that the article will be marketed as a container intended to maintain the temperature of food and beverages during travel and temporary storage. Customs finds it is not necessary to resort to marketing information to determine the identity of the backpack. It is further noted that the bag was specifically claimed by GEM to be a sample, not an article in production, that the tag noted “Insulated Backpack,” but the notation was hand-written, and that the catalogue did not include the article in issue. Although GEM advised Customs of the part of the catalogue into which this article would be included in future editions, this office found the reference to be vague and of no evidentiary value.

This office also finds little value in the hand-drawn sketch of the backpack. The sample displays all of the information contained in the drawing. Customs notes, however, that the shoulder straps in the drawing are contoured, but the padded straps on the sample are straight.

Counsel’s comments of January 2003 submitted in response to the notice of proposed revocation included that aspect of the Gemline 2003 catalog that contained “Insulated Bags.” Although the backpack in issue was represented in the 2003 catalog, Customs, as previously addressed, does not believe that it is appropriate or necessary to resort to *Mast Industries* criteria to classify this article. *See Mast Industries, Inc. v. United States*, 9 C.I.T. 549 (Ct. Int’l Trade 1985), *aff’d*, 786 F.2d 1144 (Fed. Cir. 1986).

Customs initially classified the GEM insulated or padded backpack in subheading 4202.92.9026, HTSUSA. It is the determination of this office, subsequent to further review, that the backpack is properly classified in subheading 4202.92.3020, HTSUSA.

*Holding:*

New York Ruling Letter I84912 (Aug. 9, 2002) is, hereby, revoked.

The GEM Group, Inc. backpack, style MS-SS-9186, is classified in subheading 4202.92.3020, Harmonized Tariff Schedule of the United States Annotated.

The General Column 1 Rate of Duty is eighteen and one-tenth (18.1) percent, *ad valorem*.

The textile quota category is 670.

There are no applicable quota/visa requirements for products of World Trade Organization (WTO) member-countries. The textile category number above applies to merchandise produced in countries that are not members of the WTO.

The designated textile and apparel category may be subdivided into parts. If subdivided, any quota and visa requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent negotiations and changes, to obtain the most current information available, we suggest you check, close to the time of shipment, the *Status Report On Current Import Quotas (Restraint Levels)* an internal issuance of the U.S. Customs Service which is updated weekly and is available for inspection at your local Customs Service office. The *Status Report On Current Import Quotas (Restraint Levels)* is also available on the Customs Electronic Bulletin Board (CEBB) which can be found on the U.S. Customs Web site at [www.customs.gov](http://www.customs.gov).

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

This ruling, in accordance with 19 U.S.C. 1625 (c), will become effective sixty (60) days after its publication in the CUSTOMS BULLETIN.

GREG DEUTSCH,  
(for Myles B. Harmon, Director,  
Commercial Rulings Division.)

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PROPOSED REVOCATION OF RULING LETTER AND  
TREATMENT RELATING TO THE TARIFF CLASSIFICATION  
OF A SEWING MACHINE LIGHT

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of tariff classification ruling letter and treatment relating to the classification of a sewing machine light.

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 intends to revoke a ruling concerning the tariff classification of a sewing machine light under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATE: Comments must be received on or before March 7, 2003.

ADDRESS: Written comments are to be addressed to U.S. Customs Service, Office of Regulation and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at 799 9<sup>th</sup> St. N.W. 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: Allyson Mattanah, General Classification Branch, (202) 572-8784.

#### 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 Customs 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 Customs 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 Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling pertaining to the tariff classification of a sewing machine light. Although in this notice Customs is specifically referring to New York Ruling Letter (NY) G88460, dated April 12, 2001, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this merchandise that may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise Customs 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, Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States (HTSUS). Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs 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 his agents for importations of merchandise subsequent to this notice.

In NY G88460, Customs ruled that a sewing machine light was classified in subheading 8452.90.00, HTSUS, the provision for "[s]ewing machines, other than book-sewing machines of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles; parts thereof: [o]ther sewing machines: [o]ther parts of sewing machines." NY G88460 is set forth as Attachment A to this document.

It is now Customs position that the merchandise was not correctly classified in NY G88460 because it is more specifically provided for in subheading 9405.40.60, HTSUS, the provision for "[l]amps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included: [o]ther electric lamps and lighting fittings: [o]f base metal: [o]ther."

Customs, pursuant to 19 U.S.C. 1625(c)(1), intends to revoke NY G88460 and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed Headquarters Ruling Letter (HQ) 966041 (*see* Attachment B to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: January 16, 2003.

JOHN G. BLACK,  
(for Myles B. Harmon, Director,  
Commercial Rulings Division.)

[Attachments]

## [ATTACHMENT A]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
*New York, NY, April 12, 2001.*  
CLA-2-84:RR:NC:1:104 G88460  
Category: Classification  
Tariff No. 8452.90.0010

MR. KARL F. KRUEGER  
DANZAS AEI CUSTOMS BROKERAGE SERVICES  
*29200 Northwestern Highway  
Southfield, MI 48034*

Re: The tariff classification of a sewing machine light from Taiwan.

DEAR MR. KRUEGER:

In your letter dated March 15, 2001 on behalf of Bernina of America, Inc. you requested a tariff classification ruling.

The CFL (Coldcathode Fluorescent Light) sewing machine light is used to illuminate the entire stitching area so as to reveal the details of the work. As evidenced by the sample provided, this sewing machine part consists of the following components:

- (a) a u-shaped metal housing,
- (b) a very thin white fluorescent light bulb running the length of the U-shaped housing,
- (c) wiring connected to a printed circuit board and
- (d) mounting hardware.

Your submitted sample of the sewing machine light is being returned to your office as per your request.

The applicable subheading for the CFL (Coldcathode Fluorescent Light) sewing machine light will be 8452.90.0010, Harmonized Tariff Schedule of the United States (HTS), which provides for Sewing machines, other than book-sewing machines of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles; parts thereof: Other parts of sewing machines \* \* \* Of household machines. The rate of duty will be Free.

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 Robert Losche at 212-637-7038.

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

## [ATTACHMENT B]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
*Washington, DC.*  
CLA-2 RR:CR:GC 966041  
Category: Classification  
Tariff No. 9405.40.60

MR. KARL F. KRUEGER  
DANZAS AEI CUSTOMS BROKERAGE SERVICES  
*29200 Northwestern Highway  
Southfield, MI 48034*

Re: Sewing Machine Light from Taiwan.

DEAR MR. KRUEGER:

This is in reference New York Ruling Letter (NY) G88460, issued to you on April 12, 2001, by the Director, National Commodity Specialist Division, New York, concerning the

classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a sewing machine light from Taiwan. We have reconsidered that ruling and find it to be in error.

*Facts:*

NY G88460 classified the merchandise in subheading 8452.90.00, HTSUS, the provision for “[s]ewing machines, other than book-sewing machines of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles; parts thereof: [o]ther sewing machines: [o]ther parts of sewing machines.”

The facts as stated in NY G88460 are as follows:

The CFL (Coldcathode Fluorescent Light) sewing machine light is used to illuminate the entire stitching area so as to reveal the details of the work. As evidenced by the sample provided, this sewing machine part consists of the following components:

- (a) a u-shaped metal housing,
- (b) a very thin white fluorescent light bulb running the length of the U-shaped housing,
- (c) wiring connected to a printed circuit board and
- (d) mounting hardware.

An advertisement on the Bernina® of America, Inc. web site describes the “Cool Fluorescent Light” as follows: “Bernina offers the brightest built-in light of any sewing machine. Our Cool Fluorescent Light surrounds the entire stitching area to reveal every detail of your work. For embroidery on the Artista, it brings your stitchery to life as it sews out. (Note: This accessory requires installation by your authorized Bernina Dealer.)”

*Issue:*

Is a sewing machine light classified as a part of a sewing machine or as a lamp?

*Law and Analysis:*

Merchandise imported into the U.S. is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context that requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any related section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in order. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related subheading notes and mutatis mutandis, to the GRIs. In interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

The following HTSUS headings are under consideration:

8452 Sewing machines, other than book-sewing machines of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles; parts thereof:

\* \* \* \* \*  
 9405 Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included:

Additional Rule of Interpretation (“ARI”) 1(c) states that “[i]n the absence of special language or context which otherwise requires—\* \* \* a provision for parts of an article covers products solely or principally used as a part of such articles but a provision for ‘parts’ or ‘parts and accessories’ shall not prevail over a specific provision for such part or accessory.”

Section XVI, Note 2 states, in pertinent part, the following:

Subject to note 1 to this section, note 1 to chapter 84 and to note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

(a) Parts which are goods included in any of the headings of chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8485, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;

\* \* \* \* \*

EN 94.05 states, in pertinent part, the following:

I. LAMPS AND LIGHTING FITTINGS,  
NOT ELSEWHERE SPECIFIED OR INCLUDED

Lamps and lighting fittings of this group can be constituted of any material (excluding those materials described in Note 1 to Chapter 71) and use any source of light (candles, oil, petrol, paraffin (or kerosene), gas, acetylene, electricity, etc.). Electrical lamps and lighting fittings of this heading may be equipped with lamp-holders, switches, flex and plugs, transformers, etc., or, as in the case of fluorescent strip fixtures, a starter or a ballast.

This heading covers in particular: \* \* \*.

(3) **Specialised lamps, e.g.:** darkroom lamps; **machine lamps (presented separately);** photographic studio lamps; inspection lamps (other than those of heading 85.12); non-flashing beacons for aerodromes; shop window lamps; electric garlands (including those fitted with fancy lamps for carnival or entertainment purposes or for decorating Christmas trees). (emphasis added).

In New York Ruling Letter (NY) H87473, dated February 6, 2002, an electric lamp designed to be fitted into a dedicated aperture of various popular sewing machines which power the merchandise was classified in heading 9405, HTSUS, as a lamp. This case is similar. The instant merchandise is a specialized lamp designed to be used with a sewing machine in order to illuminate the stitching area. It is therefore classifiable under GRI 1 in heading 9405, HTSUS, as a lamp, not elsewhere specified or included, amongst provisions for lamps or lighting fittings.

However, NY G88460 finds an alternative classification for the instant merchandise as a “part” of a sewing machine. In HQ 561353, dated September 19, 2002, we stated that Section XVI note 2, HTSUS, appears to direct the classification of parts within that section. In the situation where the competing provision for the article exists in another section of the HTSUS, the relative specificity of those provisions is determined by Additional US rule of Interpretation 1(c) which applies to the entire tariff. It directs that “a provision for ‘parts’ or ‘parts and accessories’ shall not prevail over a specific provision for such part or accessory.” Heading 9405, HTSUS, specifically describes the instant merchandise as a lamp that is not specified or included as such in any other provision. Hence, even if the instant merchandise is classifiable as a “part” of a sewing machine in heading 8452, HTSUS, classification in heading 9405, HTSUS, prevails as pursuant to US ARI 1(c).

Moreover, “a part of an article ‘must be an internal, constituent or component part, without which the article to which it is joined could not function.’” HQ 957817, dated December 1, 1995, quoting HQ 951857, dated August 14, 1992. In *Rollerblade, Inc. v. United States*, 116 F. Supp. 2d 1247, 1252 (2000 Ct. Int’l Trade) the court emphasizes that an accessory “must serve a purpose subordinate to, but also in direct relationship to the thing they accessorize.” *Id.* The instant merchandise is advertised as an “accessory” requiring installation by an authorized dealer. Indeed, the instant lamp is not necessary to the functioning of the sewing machine but serves the subordinate purpose of illuminating the stitching area. Hence, the light is an accessory rather than a “part” in tariff terms and therefore cannot be classified under heading 8542, HTSUS, as a part of a sewing machine.

*Holding:*

The CFL is classified in subheading 9405.40.60, HTSUS, the provision for “[l]amps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a

permanently fixed light source, and parts thereof not elsewhere specified or included: [o]ther electric lamps and lighting fittings: [o]f base metal: [o]ther.”

*Effect on Other Rulings:*

NY G88460 is revoked.

MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

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REVOCATION OF RULING LETTERS AND TREATMENT  
RELATING TO TARIFF CLASSIFICATION OF HORSE BOOTS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of two ruling letters and treatment relating to tariff classification of horse boots.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended, (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 is revoking two rulings pertaining to the tariff classification of horse boots under the Harmonized Tariff Schedule of the United States (“HTSUS”). Similarly, Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. Notice of the proposed revocation was published on November 27, 2002, in the CUSTOMS BULLETIN. No comments were received in response to this notice.

EFFECTIVE DATE: This revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Holly Files, General Classification Branch (202) 572-8866.

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 Customs 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 Customs 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 Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), a notice was published on November 27, 2002, in the CUSTOMS BULLETIN, Volume 36, Number 48, proposing to revoke NY H87074, dated January 24, 2002, which classified certain horse boots in subheading 3926.90.9880, HTSUS, as other articles of plastics and articles of other materials of headings 3901 to 3914: other: other. The notice also proposed to revoke HQ 085282, dated October 18, 1989, which classified certain horse boots in subheading 4016.99.50, HTSUS, as other articles of vulcanized rubber other than hard rubber: other. No comments were received in response to this notice.

As stated in the proposed notice, this modification will cover any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. 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 Customs during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or to the importer's or Customs' previous interpretation of the HTSUS. Any person involved in substantially identical transactions should have advised Customs during the comment period. An importer's failure to advise Customs of substantially identical transactions or of specific rulings concerning merchandise covered by this notice which was not identified, 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.

It is now Customs position that horse boots are provided for in subheading 4201.00.60, HTSUS, which provides for "Saddlery and harness for any animal (including traces, leads, knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material: other."

According to the Harmonized Commodity Description and Coding System Explanatory Notes (ENs), goods of heading 4201, HTSUS, include “equipment for all kinds of animals, of leather, composition leather, furskin, textiles or other materials.” The EN explicitly states that such goods include boots for horses.

The horse boots considered in NY H87074 are made of polyurethane plastic and have textile straps, which secure the boot to the hoof of the horse. These boots only cover the hoof and not the leg of the horse. The boots were classified in subheading 3926.90.9880, HTSUS, because of the decision reached in HQ 085282, where we stated that the terminology “horse boots” should be construed as a protective sheath for a horse’s leg according to Webster’s II New Riverside Dictionary (1984) at p. 190. The “Soft Shoe” considered in HQ 085282 is made of rubber and is different from the traditional steel horseshoe in that it extends onto the hoof of the horse and fastens around the back of the hoof.

A product literally included in a tariff definition may nonetheless be excluded upon a showing of legislative intent, *United States v. Andrew Fisher Cycle Co.*, 57 C.C.P.A. 102, 426 F.2d 1308, 1311 (CCPA 1970), but there must be “strong and sufficient indications that it was the intent of Congress” to exclude the product at issue. *Id.* There is no indication that horse boots that only cover the hooves of horses should be excluded from the tariff definition of saddlery and harness. We therefore conclude that the subject horse boots are classifiable as saddlery and harness for any animal \* \* \* of any material of heading 4201, HTSUS.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is revoking NY H87074 and HQ 085282 and any other ruling not specifically identified, to reflect the proper classification of the subject merchandise or substantially similar merchandise, pursuant to the analysis set forth in rulings HQ 965898 and HQ 965972, Attachments A and B respectively. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by the Customs Service to substantially identical merchandise.

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

Dated: January 17, 2003.

JOHN G. BLACK,  
(for Myles B. Harmon, Director,  
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,  
 U.S. CUSTOMS SERVICE,  
 Washington, DC, January 17, 2003.  
 CLA-2 RR:CR:GC 965898 HEF  
 Category: Classification  
 Tariff No. 4201.00.60

MR. BRIAN KAVANAUGH  
 DERINGER LOGISTICS CONSULTING GROUP  
 1 Lincoln Boulevard  
 Rouses Point, NY 12979

Re: Revocation of NY H87074; horse boots.

DEAR MR. KAVANAUGH:

This is in response to your letter dated September 10, 2002, requesting reconsideration of New York Ruling Letter (NY) H87074, issued to Unitrans International Corporation on January 24, 2002, on behalf of Old Mac's Pty Ltd., which classified certain horse boots under subheading 3926.90.98, of the Harmonized Tariff Schedule of the United States (HTSUS), which provides for other articles of plastics and articles of other materials of headings 3901 to 3914: other: other. We have had an opportunity to review 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 (Customs Modernization) of the North American Free Trade Agreement Implementation Act, (Pub. L. 103-82, 107 Stat. 2057, 2186), notice of the proposed revocation of NY H87074 and Headquarters Ruling Letter (HQ) 085282, was published on November 27, 2002, in the CUSTOMS BULLETIN, Volume 36, Number 48. No comments were received in response to this notice.

*Facts:*

The subject merchandise is a horse boot of polyurethane plastic, with textile straps to secure it to the hoof of the horse. It is designed to allow the horse to tread over rugged terrain in comfort. Old Mac's boots are designed for riding, transport, or rehabilitation after injury.

*Issue:*

Whether the subject merchandise is classifiable as articles of plastic under subheading 3926.90.98, HTSUS, or saddlery and harness for any animal under subheading 4201.00.60, HTSUS.

*Law and Analysis:*

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

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

The HTSUS provisions under consideration are as follows:

<b>3926</b>	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other.
*	* * * * *

**4201** Saddlery and harness for any animal (including traces, leads, knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material:

4201.00.60 Other.

EN 42.01, in pertinent part, states: "This heading covers equipment for all kinds of animals, of leather, composition leather, furskin, textiles or other materials. These goods include, *inter alia*, \* \* \* boots for horses."

Horse boots are not defined in the HTSUS or the ENs. A tariff term that is not defined in the HTSUS or ENs is construed in accordance with its common or commercial meaning. *Nippon Kogaku (USA) Inc. v. United States*, 69 CCPA 89, 673 F.2d 380 (1982). Common and commercial meaning may be determined by consulting dictionaries, lexicons, scientific authorities and other reliable sources.

The definition of horse boots which Customs relied upon in HQ 085282, dated October 18, 1989, defined boot as "a protective sheath for a horse's leg." Webster's II New Riverside University Dictionary (1984) at p. 190. Thus, in HQ 085282, Customs did not consider the item at issue, the "Soft Shoe", as a horse boot because it was a protective shoe for the horse's hoof and not the horse's leg. We now believe this ruling to be incorrect and the definition relied upon to be too narrow for purposes of correctly construing the legislative intent of Congress in adopting heading 4201.

In another dictionary, "Boot" is defined as "a protective covering for the foot and part of the leg of a horse." The Oxford English Dictionary (1989) at p. 404. Since this definition conflicts to some extent with the one previously relied upon by Customs, it is our opinion that the meaning of the term is imprecise such that a clear definition of that term cannot be determined. However, whenever the common meaning is somewhat indefinite, "it is proper to consider the interpretation commonly placed upon it in the particular industry involved." *United States v. Colonial Commerce Co., Ltd.*, et al., 44 CCPA 18, C.A.D. 629 (1956).

Hence, we look to the tack industry with respect to marketing of these goods. Protective horse boots are designed to protect different parts of the horse's leg and hoof. The area that a horse's boot may protect extends from the oblique extensor of the knee and the superficial flexor tendon to the coronet band and hoof. Thus, the term horse boots seems to include not only articles forming a protective sheath for the horse's leg, but also articles which cover solely the hoof. See *About the Horse*, at <http://www.horseboots/athrs.html> (Oct. 11, 2002). Examples of these articles include but are not limited to quarter boots, bell boots, and coronet boots.

Furthermore, the Court of International Trade stated that "[w]hile an importer's catalogs and advertisements are not dispositive in determining the correct classification of goods under the HTSUS, they are certainly probative of the way the importer viewed the merchandise and of the market the importer was trying to reach." *THK America, Inc. v. U.S.*, 837 F.Supp. 427, 433 (1993); *Marubeni America Corp. v. U.S.*, 821 F.Supp. 1521, 1528 (1993). Old Mac's Pty Ltd. markets the subject merchandise as a multi-purpose horse boot. Old Mac's horse boots are "used for transportation, injury prevention and/or rehabilitation, as well as a genuine replacement for the metal shoe in day to day riding." See *Old Mac's Boots & Horse Care*, at <http://www.yourhorse.care.com/faq.htm> (Sept. 10, 2002).

Current industry standards include horse boots which form a protective sheath for the horse's leg as well as boots which cover only the hoof, and boots covering both the leg and hoof. It is Customs' opinion that HQ 085282 construed the definition of "boots for horses" too narrowly. That ruling is also being reconsidered. Sources dating back to the 1940s have deemed horse boots as articles protecting either the horse's leg or solely the horse's hoof. See Margaret Cabell Self, *Riding Simplified* 7 (A.S. Barnes & Company, Inc. 1948) (Diagram featuring coronet boots, rubber boots, and boots (buckled on)). This evidence combined with the common and commercial meaning in the tack industry lead to the conclusion that horse boots include not only boots covering the horse's leg but also boots which protect and cover the hoof only. It is important to note that bandages or wraps used for medical purposes such as the treatment of wounds are not classified as saddlery. Such items are more specifically provided for in heading 3005.

Thus, the subject merchandise's proper classification is under subheading 4201.00.60, HTSUS, which provides for "Saddlery and harness for any animal (including traces, leads, knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material: other."

*Holding:*

The subject merchandise is classifiable in subheading 4201.00.60 HTSUS, as “Saddlery and harness for any animal (including traces, leads, knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material: other.”

*Effect on Other Rulings:*

NY H87074 is revoked.

JOHN G. BLACK,  
(for Myles B. Harmon, Director,  
Commercial Rulings Division.)

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[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
Washington, DC, January 17, 2003.  
CLA-2 RR:CR:GC 965972 HEF  
Category: Classification  
Tariff No. 4201.00.60

MR. ZONGYI ZHANG  
APPLIED CONCEPTS, INC.  
700 Second Avenue  
Pittsburgh, PA 15219

Re: Revocation of HQ 085282; horse boots.

DEAR MR. ZHANG:

This is in reference to Headquarters Ruling Letter (HQ) 085282 issued to you on October 18, 1989, by the Director, Commercial Rulings Division, concerning the classification, under the Harmonized Tariff Schedule of the United States, (HTSUS), of rubber horse-shoes. We have had an opportunity to review this ruling and believe 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 (Customs Modernization) of the North American Free Trade Agreement Implementation Act, (Pub. L. 103-82, 107 Stat. 2057, 2186), notice of the proposed revocation of New York Ruling Letter (NY) H87074 and HQ 085282, was published on November 27, 2002, in the CUSTOMS BULLETIN, Volume 36, Number 48. No comments were received in response to this notice.

*Facts:*

HQ 085282 states that the merchandise known as the “Soft Shoe” is made of rubber and is different from the traditional steel horseshoe in that it extends onto the hoof of the horse and fastens around the back of the hoof. The shoe is used for transporting, riding, work, breeding, and endurance.

*Issue:*

Whether the subject merchandise is classifiable within subheading 4016.99.60, HTSUS, which provides for “[o]ther articles of vulcanized rubber other than hard rubber: other: other” or as saddlery and harness for any animal under subheading 4201.00.60, HTSUS.

*Law and Analysis:*

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

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

The HTSUS provisions under consideration are as follows:

<b>4016</b>	Other articles of vulcanized rubber other than hard rubber:
4016.99	Other
4016.99.60	Other.
*	*
*	*
*	*
*	*
<b>4201</b>	Saddlery and harness for any animal (including traces, leads, knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material:
4201.00.60	Other.

EN 42.01, in pertinent part, states: "This heading covers equipment for all kinds of animals, of leather, composition leather, furskin, textiles or other materials. These goods include, *inter alia*, \* \* \* boots for horses."

Horse boots are not defined in the HTSUS or the ENs. A tariff term that is not defined in the HTSUS or ENs is construed in accordance with its common or commercial meaning. *Nippon Kogaku (USA) Inc. v. United States*, 69 CCPA 89, 673 F.2d 380 (1982). Common and commercial meaning may be determined by consulting dictionaries, lexicons, scientific authorities and other reliable sources.

The definition of horse boots which Customs relied upon in HQ 085282, dated October 18, 1989, defined boot as "a protective sheath for a horse's leg." Webster's II New Riverside University Dictionary (1984) at p. 190. Thus, in HQ 085282, Customs did not consider the subject merchandise as a horse boot because it was a protective shoe for the horse's hoof and not the horse's leg. We now believe this ruling to be incorrect and the definition relied upon to be too narrow for purposes of correctly construing the legislative intent of Congress in adopting heading 4201.

In another dictionary, "Boot" is defined as "a protective covering for the foot and part of the leg of a horse." The Oxford English Dictionary (1989) at p. 404. Since this definition conflicts to some extent with the one previously relied upon by Customs, it is our opinion that the meaning of the term is imprecise such that a clear definition of that term cannot be determined. However, whenever the common meaning is somewhat indefinite, "it is proper to consider the interpretation commonly placed upon it in the particular industry involved." *United States v. Colonial Commerce Co., Ltd.*, et al., 44 CCPA 18, C.A.D. 629 (1956).

Hence, we look to the tack industry with respect to the marketing of these goods. Protective horse boots are designed to protect different parts of the horse's leg and hoof. The area that a horse's boot may protect extends from the oblique extensor of the knee and the superficial flexor tendon to the coronet band and hoof. Thus, the term horse boots seems to include not only articles forming a protective sheath for the horse's leg, but also articles which cover solely the hoof. *See About the Horse*, at <http://www.horseboots/athrs.html> (Oct. 11, 2002). Examples of these articles include but are not limited to quarter boots, bell boots, and coronet boots.

Current industry standards include horse boots which form a protective sheath for the horse's leg as well as boots which cover only the hoof, and boots covering both the leg and hoof. It is Customs' opinion that HQ 085282 construed the definition of "boots for horses" too narrowly. Sources dating back to the 1940s have deemed horse boots as articles protecting either the horse's leg or solely the horse's hoof. *See* Margaret Cabell Self, *Riding Simplified 7* (A.S. Barnes & Company, Inc. 1948) (Diagram featuring coronet boots, rubber boots, and boots (buckled on)). This evidence combined with the common and commercial meaning in the tack industry lead to the conclusion that horse boots include not only boots covering the horse's leg but also boots which protect and cover the hoof only. It is important to note that bandages or wraps used for medical purposes such as the treatment of wounds are not classified as saddlery. Such items are more specifically provided for in heading 3005.

Thus, the subject merchandise's proper classification is under subheading 4201.00.60, HTSUS, which provides for "Saddlery and harness for any animal (including traces, leads,

knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material: other.”

*Holding:*

The subject merchandise is classifiable in subheading 4201.00.60 HTSUS, as “Saddlery and harness for any animal (including traces, leads, knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material: other.”

*Effect on Other Rulings:*

HQ 085282 is revoked.

JOHN G. BLACK,  
(for Myles B. Harmon, Director,  
Commercial Rulings Division.)