

Bureau of Customs and Border Protection

CBP Decisions

(CBP Dec. 05-42)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR NOVEMBER, 2005

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in CBP Decision 05-39 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Holiday(s): November 11, 2005
November 24, 2005

South Africa rand

November 15, 2005	0.147330
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Sweden krona

November 14, 2005	0.121896
November 15, 2005	0.121513
November 16, 2005	0.121309
November 17, 2005	0.121801

Dated: December 1, 2005

MARGARET T. BLOM,
Acting Chief,
Customs Information Exchange.

(CBP Dec. 05-43)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR
NOVEMBER, 2005

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday(s): November 11, 2005
November 24, 2005

European Union euro:

November 1, 2005.....	1.199800
November 2, 2005.....	1.206700
November 3, 2005.....	1.197100
November 4, 2005.....	1.182800
November 5, 2005.....	1.182800
November 6, 2005.....	1.182800
November 7, 2005.....	1.179500
November 8, 2005.....	1.177300
November 9, 2005.....	1.174800
November 10, 2005.....	1.174000
November 11, 2005.....	1.174000
November 12, 2005.....	1.174000
November 13, 2005.....	1.174000
November 14, 2005.....	1.166700
November 15, 2005.....	1.169500
November 16, 2005.....	1.167200
November 17, 2005.....	1.170600
November 18, 2005.....	1.174100
November 19, 2005.....	1.174100
November 20, 2005.....	1.174100
November 21, 2005.....	1.173400
November 22, 2005.....	1.173700
November 23, 2005.....	1.179900
November 24, 2005.....	1.179900
November 25, 2005.....	1.172400
November 26, 2005.....	1.172400
November 27, 2005.....	1.172400
November 28, 2005.....	1.180400
November 29, 2005.....	1.178600
November 30, 2005.....	1.179000

South Korea won:

November 1, 2005.....	0.000959
November 2, 2005.....	0.000962
November 3, 2005.....	0.000957
November 4, 2005.....	0.000953
November 5, 2005.....	0.000953

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly
list for November (continued):

South Korea won: (continued):

November 6, 2005.....	0.000953
November 7, 2005.....	0.000954
November 8, 2005.....	0.000955
November 9, 2005.....	0.000956
November 10, 2005.....	0.000956
November 11, 2005.....	0.000956
November 12, 2005.....	0.000956
November 13, 2005.....	0.000956
November 14, 2005.....	0.000964
November 15, 2005.....	0.000966
November 16, 2005.....	0.000964
November 17, 2005.....	0.000967
November 18, 2005.....	0.000965
November 19, 2005.....	0.000965
November 20, 2005.....	0.000965
November 21, 2005.....	0.000963
November 22, 2005.....	0.000957
November 23, 2005.....	0.000966
November 24, 2005.....	0.000966
November 25, 2005.....	0.000960
November 26, 2005.....	0.000960
November 27, 2005.....	0.000960
November 28, 2005.....	0.000962
November 29, 2005.....	0.000965
November 30, 2005.....	0.000964

Taiwan N.T. dollar:

November 1, 2005.....	0.029780
November 2, 2005.....	0.029780
November 3, 2005.....	0.029780
November 4, 2005.....	0.029753
November 5, 2005.....	0.029753
November 6, 2005.....	0.029753
November 7, 2005.....	0.029691
November 8, 2005.....	0.029665
November 9, 2005.....	0.029727
November 10, 2005.....	0.029797
November 11, 2005.....	0.029797
November 12, 2005.....	0.029797
November 13, 2005.....	0.029797
November 14, 2005.....	0.029949
November 15, 2005.....	0.029842
November 16, 2005.....	0.029744
November 17, 2005.....	0.029735
November 18, 2005.....	0.029735
November 19, 2005.....	0.029735
November 20, 2005.....	0.029735
November 21, 2005.....	0.029753
November 22, 2005.....	0.029744
November 23, 2005.....	0.029869
November 24, 2005.....	0.029869

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for November (continued):

Taiwan N.T. dollar: (continued):

November 25, 2005	0.029806
November 26, 2005	0.029806
November 27, 2005	0.029806
November 28, 2005	0.029762
November 29, 2005	0.029842
November 30, 2005	0.029842

Dated: December 1, 2005

MARGARET T. BLOM,
Acting Chief,
Customs Information Exchange.

General Notices

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, December 7, 2005,

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

Sandra L. Bell for MICHAEL T. SCHMITZ,
*Assistant Commissioner,
Office of Regulations and Rulings.*

19 CFR PART 177

PROPOSED REVOCATION OF RULING LETTERS AND TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF CERTAIN PLASMA MODULES

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

ACTION: Notice of proposed revocation of ruling letters and treatment relating to the tariff classification of certain plasma modules.

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

DATE: Comments must be received on or before January 20, 2006.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street,

N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Tom Peter Beris, Tariff Classification and Marking Branch, at (202) 572-8789.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke two ruling letters pertaining to the tariff classification of certain plasma modules. Although in this notice CBP is specifically referring to two rulings, NY K83248 and NY K838886, this notice covers any rulings on this merchandise that may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing data bases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer's failure to

advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to this notice.

In NY K83248, dated February 20, 2004 and NY K83886, dated March 9, 2004 ("Attachment A" and "Attachment B" to this document, respectively), CBP ruled that the certain plasma modules imported by Pioneer for use in finished gas plasma televisions were classified as flat panel screen assemblies under subheading 8529.90.53, HTSUS.

CBP has had an opportunity to reexamine the issue, and now believes that these particular modules are classified under subheading 8529.90.89, HTSUS, which provides for parts suitable for use solely or principally with the apparatus of headings 8525 to 8528: Other: Other: Of television receivers: Subassemblies, for color television receivers, containing two or more printed circuit boards or ceramic substrates with components assembled thereon, except tuners or convergence assemblies: Other.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY K83248, NY K83886 and any other ruling not specifically identified, pursuant to the analysis set forth in proposed HQ 967693 ("Attachment C" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by the CBP to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

DATED: December 2, 2005

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
NY K83248
February 20, 2004
CLA-2-85: RR: NC: 1:108 K83248
CATEGORY: Classification
TARIFF NO.: 8529.90.5300

MR. JAMES F. O'HARA
STEIN SHOSTAK SHOSTAK & O'HARA
515 South Figueroa Street, Suite 1200
Los Angeles, California 90071-3329

RE: The tariff classification of a plasma module from Japan.

DEAR MR. O'HARA:

In your letter dated February 13, 2004, on behalf of your client Pioneer Electronics, you requested a tariff classification ruling.

The item in question is a plasma module denoted as part number PDU-5003/T/WL. The module is to be used in the manufacture of a Television Plasma Monitor, model number PDP-504PU. This particular model is a 50-inch gas plasma television monitor designed for television viewing.

The module in question (descriptive literature provided) is in fact the gas plasma screen for the monitor. It consists of a 50-inch diagonal glass sandwich containing the necessary gas typical of such flat panel gas plasma monitors. It also contains electronic assemblies described as the address assembly, the scan A & B assemblies and various connector assemblies.

Upon review of the descriptive literature, complete with detailed pictures of the module as imported, this office is of the opinion that this module is principally used with the apparatus of heading 8528 HTS.

The applicable subheading for the plasma module, part number PDU-5003/T/WL will be 8529.90.5300, Harmonized Tariff Schedule of the United States (HTS), which provides for Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528: Flat panel screen assemblies for the apparatus of subheadings 8528.12.62, 8528.12.64, 8528.12.68, 8528.12.72, 8528.21.55, 8528.21.60, 8528.21.65, 8528.21.70, 8528.30.62, 8528.30.64, 8528.30.66 and 8528.30.68. The rate of duty will be 2.9 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Michael Contino at 646-733-3014.

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

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
NY K83886
March 9, 2004
CLA-2-85: RR: NC: 1:108 K83886
CATEGORY: Classification
TARIFF NO.: 8529.90.5300

MR. JAMES F. O'HARA
STEIN SHOSTAK SHOSTAK & O'HARA
515 South Figueroa Street, Suite 1200
Los Angeles, California 90071-3329

RE: The tariff classification of plasma modules from Japan.

DEAR MR. O'HARA:

In your letter dated March 2, 2004, on behalf of your client Pioneer Electronics, you requested a tariff classification ruling.

The items in question are plasma modules denoted as part numbers PDU-M5003/T/WL and PDU-M4303/T/WL. Model PDU-M5003/T/WL is the 50 inch diagonally measured unit and model PDU-M4303/T/WL is the 43-inch diagonally measure unit. Each module is to be used in the manufacture of a gas plasma television monitors.

Each of these units is actually the gas plasma screen for the appropriate television monitor. They each consist of a glass sandwich, of their respective diagonal screen size, and the necessary gas typical of such flat panel gas plasma monitors. They also contain electronic assemblies and various connector assemblies. Upon review of the descriptive literature this office is of the opinion that these modules are principally used with the apparatus of heading 8528 HTS.

The applicable subheading for the specified models of the plasma modules will be 8529.90.5300, Harmonized Tariff Schedule of the United States (HTS), which provides for Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528: Flat panel screen assemblies for the apparatus of subheadings 8528.12.62, 8528.12.64, 8528.12.72, 8528.21.55, 8528.21.60, 8528.21.65, 8528.21.70, 8528.30.62, 8528.30.64, 8528.30.66 and 8528.30.68. The rate of duty will be 2.9 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Michael Contino at 646-733-3014.

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

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 967693
CLA-2 RR:CTF:TCM 967693 TPB
CATEGORY: Classification
TARIFF NO.: 8529.90.89

MR. JAMES F. O'HARA
STEIN, SHOSTAK, SHOSTAK, POLLACK & O'HARA, LLP
865 S. Figueroa St
Suite 1388
Los Angeles, CA 90017

RE: Pioneer Flat Panel Modules; Revocation of NY K83248 and NY K83886

DEAR MR. O'HARA:

This is in regard your request of April 26, 2005, on behalf of your client, Pioneer Electronics Technology ("PET") for a binding ruling concerning the tariff classification of plasma display panel modules for color television displays under the Harmonized Tariff Schedule of the United States ("HTSUS"). We note that in a letter to the National Commodity Specialist Division, New York, dated September 23, 2004, you indicated that PET had previously been issued rulings by U.S. Customs and Border Protection ("CBP") and that the panels "which are the subject of this request are identical in all material respects to the Plasma Modules which were the subject of those rulings except for part number designations." To that end, rather than issue new prospective rulings, we will reconsider the previous rulings issued to you. Those rulings are identified as NY K83248, dated February 20, 2004 and NY K83886, dated March 9, 2004. In both rulings, CBP determined that the imported plasma modules were classified under subheading 8529.90.53, which provides for flat panel screen assemblies for the apparatus of subheadings 8528.12.62, 8528.12.64, 8528.12.72, 8528.21.55, 8528.21.60, 8528.21.65, 8528.21.70, 8528.30.62, 8528.30.64, 8528.30.66 and 8528.30.68.

We have had an opportunity to re-visit this issue and because of the reasons set forth below, now consider the plasma modules to be classified under subheading 8529.90.89, which provides for: "Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528: Other: Other: Of television receivers: Subassemblies, for color television receivers, containing two or more printed circuit boards or ceramic substrates with components assembled thereon, except tuners or convergence assemblies: Other." In reaching our decision, we also considered the information provided by you in our meeting of August 5, 2005.

FACTS:

The merchandise described in NY K83248 is as follows:

The item in question is a plasma module denoted as part number PDU-5003/T/WL. The module is to be used in the manufacture of a Television Plasma Monitor, model number PDP-504PU. This particular model is a 50-inch gas plasma television monitor designed for television viewing.

The module in question (descriptive literature provided) is in fact the gas plasma screen for the monitor. It consists of a 50-inch diagonal glass

sandwich containing the necessary gas typical of such flat panel gas plasma monitors. It also contains electronic assemblies described as the address assembly, the scan A & B assemblies and various connector assemblies.

The merchandise described in NY K83886 is as follows:

The items in question are plasma modules denoted as part numbers PDU-M5003/T/WL and PDU-M4303/T/WL. Model PDU-M5003/T/WL is the 50 inch diagonally measured unit and model PDU-M4303/T/WL is the 43-inch diagonally measured unit. Each module is to be used in the manufacture of a gas plasma television monitors.

Each of these units is actually the gas plasma screen for the appropriate television monitor. They each consist of a glass sandwich, of their respective diagonal screen size, and the necessary gas typical of such flat panel gas plasma monitors. They also contain electronic assemblies and various connector assemblies.

In your letter of April 26, 2005 and at our meeting on August 5, 2005, you further described the merchandise at issue. Additionally, you went into detail as to what electronic assemblies and connectors are on the panel at the time of its importation:

- Panel: The panels at issue come in two variations: a 50-inch model and a 43-inch model. In both cases, the panel consists of front and rear glass plates sandwiching a honeycomb of thousands of tiny cells or pixels. Each cell or pixel is subdivided into 3 sub cells whose walls are coated with red, green and blue phosphor, respectively. Each cell is filled with discharge gas as well. Long electrodes are also sandwiched between the glass plates, on both sides of the cells. The address electrodes sit behind the cells, along the rear glass plate. The transparent display electrodes, which are surrounded by an insulating dielectric material and covered by a magnesium oxide protective layer, are mounted above the cell, along the front glass plate. The display electrodes are arranged in horizontal rows along the screen and the address electrodes are arranged in vertical columns. Thus, the vertical and horizontal electrodes form a basic grid. To ionize the discharge gas in a particular cell, the modules' Scan and Address Assemblies charge the electrodes that intersect at that cell. When the intersecting electrodes are charged (with a voltage difference between them), an electric current flows through the gas in the cell. By varying the pulses of current flowing through the different cells, the intensity or brightness of each sub cell color can be manipulated to create different combinations of red, green and blue to produce colors across the entire spectrum. The 50-inch panel has 983,040 (1280x768) cells and the 43-inch panel has 786,432 cells (1024x768) cells. The panel is where the image is displayed for viewing;
- Scan Assemblies (A and B): these printed circuit assemblies (PCAs) select vertically which pixels should receive an electrical charge according to the control signals from the Y Drive Assembly. The Scan Assemblies also provides power from the Y Drive Assemblies;

- Address Assemblies: these PCAs select horizontally which pixels should receive an electrical charge according to the control signals from the Digital Video Assembly (“DVA”). They also provide power from the DVA;
- X Connector Assemblies: these are the physical link between the X Drive Assemblies and the panel;
- Metal chassis: structural support for the assemblies

After importation, PET assembles the following components at its factory in Pomona, California:

- X Drive Assemblies: coupled with the Y Drive Assemblies these PCAs generate driving pulses to make the panel emit light and send the pulses to the cells on the panel;
- Y Drive Assemblies: coupled with the X Drive Assemblies, these PCAs generate driving pulses to make the panel emit light and send the pulses to the cells on the panel through the Scan Assemblies;
- Digital Video Assembly (“DVA”): contains control electronics circuitry and a digital signal processor (microcomputer); converts conventional digital Red-Green-Blue (RGB) signals into driving and timing instructions suitable for plasma display. The instructions are sent to the X and Y Drive Assemblies and the Address Assemblies.
- Power Supply Unit: the power supply unit has three main functions:
 - 1) isolates power from primary to secondary;
 - 2) converts AC (alternating current) into DC (direct current); and
 - 3) provides all components in the plasma display with DC power;
- “Fukugo” Assembly: this is a complex assembly that contains a number of PCAs:
 - Panel Interface Assembly: for plasma models that operate with a Media Receiver, this assembly receives scrambled digital signals from the Media Receiver (the Media Receiver being a part of a plasma display system and performs the television reception function as well as decoding functions for video images such as composite and S-video signals) and descrambles them;
 - LED Assembly: contains red and green LEDs;
 - Front Key Assembly: Switches for power on/off, volume up/down, etc.;
 - Key Control Assembly: contains a key scan microprocessor connected to the Front Key Assembly;
 - Panel IR Assembly: contains infrared (IR) receiver for the remote control.
- Audio Assembly: amplifies audio signals (e.g., sent from a Media Receiver) and transmits the signals to the speakers.

ISSUE:

What is the proper classification of the plasma modules under the HTSUS?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRIs"). The systematic detail of the HTSUS is such that most 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 2 through 6 may then be applied in order.

When the subheadings, rather than the headings are at issue, GRI 6 is applied. GRI 6 provides in pertinent part that: "the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes, and mutatis mutandis, to [rules 1 through 5] on the understanding that only subheadings at the same level are comparable for the purposes of this rule and the relative section and chapter notes also apply, unless the context otherwise requires."

The modules are component parts that are used in the manufacture of finished flat panel screen televisions or a flat panel screen video monitor of heading 8528, HTSUS. Note 2 to Section XVI, provides, in pertinent part, that:

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 chapters 84 and 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;

Because the modules are not included in any of the headings of chapters 84 and 85, classification cannot be determined by application of Note 2(a) to Section XVI. According to the information you submitted in your letter of April 26, 2005, the modules are designed to be solely or principally used in the manufacture of finished televisions, which are classified in heading 8528, HTSUS. Based on the application of Note 2(b) to Section XVI, we find that the modules meet the terms of heading 8529, HTSUS, as parts suitable for use solely or principally with the apparatus of heading 8528.

The subheadings under consideration are as follows:

- 8529 Parts suitable for use solely or principally with the apparatus of heading 8525 to 8528:
- 8529.90 Other:
- Printed Circuit Assemblies:
- Of television apparatus:
- 8529.90.06 Other
- * * *
- 8529.90.53 Flat panel screen assemblies for the apparatus of subheadings 8528.12.62, 8528.12.64, 8528.12.68, 8528.12.72, 8528.21.55, 8528.21.60, 8528.21.65, 8528.21.70, 8528.30.62, 8528.30.64, 8528.30.66, and 8528.30.68
- Other:
- Of television receivers:
- Subassemblies, for color television receivers, containing two or more printed circuit boards or ceramic substrates with components assembled thereon, except tuners or convergence assemblies:
- 8529.90.89 Other [than the components enumerated in additional U.S. note 4 to this chapter¹]. . . .

Subheading 8529.90.53, HTSUS, was added to the tariff as part of the North American Free Trade Agreement (NAFTA) Implementation Act (Pub. L. 103-182, 107 Stat. 2057) on December 8, 1993. The NAFTA does not provide a definition or description of "flat panel screen assemblies." As this term appears in each NAFTA party's domestic tariff schedule, the parties signed a clarification on August 4, 2004, which memorializes the assent of the NAFTA parties to its common interpretation of this tariff term:

"For purposes of tariff item 8529.90.ee [footnote 2], the phrase 'flat panel screen assemblies' means an assembly consisting of at least drive electronics, control electronics and a display device, other than LCD technologies."

¹Additional U.S. Note 4 to Chapter 85 states in relevant part, for the purposes of 8529.90.88 and 8529.90.89:

- (a) Each subassembly that contains as a component, or is covered in the same entry with, one or more of the following television components, viz.,
 tuner, channel selector assembly, antenna, deflection yoke, degaussing coil, picture tube mounting bracket, grounding assembly, parts necessary for fixing the picture tube or tuner in place, consumer-operated controls or speaker,
 shall be classified in subheading . . . 8529.90.88, as appropriate; and
- (b) Each subassembly shall be counted as a single unit, except that two or more different printed circuit boards or ceramic substrates covered by the same entry and designed for assembly into the same television models shall be counted as one unit."

“[footnote 2] If at least one of the components of the definition of ‘flat panel screen assemblies’ is not incorporated, such assembly shall not be classifiable within tariff item 8529.90.ee.”

The clarification issued by the NAFTA parties does not further expand upon the terms “drive” or “control” electronics nor do any Legal or Explanatory Notes to the HTSUS offer definitions for these terms. Undefined tariff terms are construed in accordance with their common and commercial meaning. *See Nippon Kogaku (USA), Inc. v. United States*, 69 CCPA 89, 673 F2d. 380 (1982). Common and commercial meaning may be determined by consulting dictionaries, lexicons, scientific authorities and other reliable sources. *See C.J. Tower & Sons v. United States*, 69 CCPA 128, 673 F2d. 1268 (1982).

Flat panel displays utilize a number of sophisticated electronics, including microcomputers to process signals, thus we found it appropriate to examine the meaning of these terms from a technical viewpoint. Alan Freedman’s *Computer Glossary* (9th ed.) defines “driver” as follows:

(2) a device that provides signals or electrical current to activate a transmission line or display screen.

Merriam-Webster’s Collegiate Dictionary (10th ed.) offers the following definition:

drive (n.): 5 a: the means for giving motion to a machine or machine part.

Based upon CBPs discussions with the industry and our own research, CBP finds that “drive” electronics, as they pertain to flat panel assemblies, energize the appropriate cell on the display in order to create an image.

Similarly, the meaning of the term “control” electronics was examined through the use of technical dictionaries. Freedman’s *Computer Glossary* defines “control unit” as:

(2) Within the computer, a control unit, or controller, is hardware that performs the physical data transfers between memory and a peripheral device, such as a disk or screen, or a network.

The Dictionary of Multimedia — Terms and Acronyms (1999 ed.) provides the following definition:

controller (n). 1. In computer hardware, a processing component that manages the flow of data between the computer and peripheral devices.

Finally, the *IBM Dictionary of Computing* (1994) defines “control” as follows:

(1) The determination of the time and order in which the parts of a data processing system and the devices that contain those parts perform the input, processing, storage and output functions.

Thus, although the term “control” may encompass a number of functions when it comes to a data processing system, with respect to flat panel screen assemblies, control electronics manage the data (timing and order) which are used to ultimately create an image on the display.

Therefore, “control” electronics direct video signals and timing instructions to the “drive” electronics. The “drive” electronics take the information from the “control” electronics and energize particular cells at particular times on the display in order to create an image for viewing. With this un-

derstanding of the terms in the NAFTA clarification, we next examine the products at issue before us, as imported into the United States.

1. The Panel

The panel fulfills the requirement of a “display device” set forth in the clarification. As described in the “Facts” section above, the display contains thousands of cells which are energized to create a viewable image.

2. Scan Assemblies

As indicated in the “Facts” section above, the Scan Assemblies select vertically which pixels should be on and off according to the control signals from the Y Drive Assemblies. The Scan Assemblies also provide power from the Y Drive Assemblies.

You contend that the Scan Assemblies are neither “drive” nor “control” electronics. However, CBP believes that the Scan Assemblies fall within the scope of the term “drive electronics.” The Scan Assemblies send drive pulses generated from the Y Drive Assemblies to instruct the panel to emit light.

3. Address Assemblies

Similarly, CBP views these boards as “drive” electronics. They receive a control signal provided by the DVA and energize the appropriate cell, ultimately producing a video image.

4. X Connector Assemblies

The X Connector Assemblies are a physical link or connection between the X Drive Assemblies and the panel.

5. Metal chassis

This is a structural support for the above components.

Based upon this recent clarification of the meaning of the term “flat panel assemblies,” in the HTSUS, CBP concludes that the modules at issue do not meet the terms of the phrase, as they only contain two of the three required elements for “flat panel screen assemblies,” i.e., the display device and drive electronics. The panels, as imported, do not contain “control” electronics. Therefore, the modules cannot be classified under subheading 8529.90.53, HTSUS. The modules are subassembly parts of television receivers consisting of two or more printed circuit board assemblies and none of the components listed in Additional U.S. Note 4(a) to Chapter 85. Thus, we find that the modules are classified in subheading 8529.90.89, HTSUS, as other subassemblies for color television receivers.

HOLDING:

For the reasons set forth above by application of GRIs 1 and 6, the subject plasma modules are classified under subheading 8529.90.8900, HTSUSA, as: “[p]arts suitable for use solely or principally with the apparatus of heading 8525 to 8528: [o]ther: [o]ther: [o]f television receivers: [s]ubassemblies, for color television receivers, containing two or more printed circuit boards or ceramic substrates with components assembled thereon, except tuners or convergence assemblies: [o]ther [than the components enumerated in additional U.S. note 4 to this chapter]. . . .” The 2005 column one, general rate of duty is free.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the Internet at www.usitc.gov/tata/hts.

EFFECT ON OTHER RULINGS:

NY K83248 and NY K83886 are revoked.

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

