

U.S. Customs and Border Protection

CBP Decisions

CBP Dec. 09-07

NEW GUIDELINES FOR REMISSION OF FORFEITURES AND MITIGATION OF PENALTIES FOR VIOLATION OF THE CLEAN DIAMOND TRADE ACT

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

ACTION: General notice.

SUMMARY: This document provides new guidelines for the remission of forfeitures and the mitigation of penalties under the Clean Diamond Trade Act.

EFFECTIVE DATE: April 10, 2009.

FOR FURTHER INFORMATION CONTACT:

Brian Barulich, Penalties Branch, Border Security & Trade Compliance Division, Regulations & Rulings, Office of International Trade, (202) 325-0059.

SUPPLEMENTARY INFORMATION

Background

“Conflict diamonds,” rough diamonds used by rebel movements to finance wars against legitimate governments, have fuelled decades of devastating armed conflicts in countries such as Angola, Cote d’Ivoire, the Democratic Republic of the Congo and Sierra Leone. On November 5, 2002, to stem the flow of these conflict diamonds, the United States along with numerous other members of the United Nations, decided to establish the Kimberley Process Certification Scheme (“KPCS”) by their signature of the Interlaken Declaration. In order to participate in the KPCS, participants (currently 48 countries and the European Community) must “establish a system of in-

ternal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from its territory” and to “maintain dissuasive and proportional penalties for transgressions.”

In order for the KPCS to become effective in the United States, Congress enacted the Clean Diamond Trade Act (“CDTA”) (Public Law 108–19) which was signed into law on July 29, 2003 and is codified at 19 U.S.C. 3901 *et seq.* The CDTA directs the President to “prohibit the importation into, or exportation from, the United States of any rough diamond, from whatever source, that has not been controlled through the [KPCS].” See 19 U.S.C. 3903(a). An importation or exportation of rough diamonds is “controlled through the [KPCS]” if it is an importation from or exportation to “the territory of a Participant” and is “carried out in accordance with the KPCS, as set forth in regulations promulgated by the President,” or “under a system determined by the President to meet substantially the standards . . . of the KPCS.” See 19 U.S.C. 3902(2).

In accordance with this provision, the President issued regulations (the “Rough Diamonds Control Regulations” found at 31 CFR Part 592) requiring, *inter alia*, that any importation of rough diamonds into the United States and any exportation of rough diamonds from the United States be accompanied by a Kimberley Process Certificate and be sealed in a tamper-resistant container. See 31 CFR 592.301(a)(1), (2). Under the Act and regulations, U.S. Customs and Border Protection (“CBP”) is designated as the “Importing Authority” for the United States, the entity having the authority to enforce the laws and regulations regulating imports of rough diamonds, including the verification of the Kimberley Process Certificate accompanying the shipment. See 19 U.S.C. 3902(4) and 31 CFR 592.306. “Rough diamond” is defined as “any diamond that is unworked or simply sawn, cleaved, or bruted and classifiable under subheading 7102.10, 7102.21, or 7102.31 of the Harmonized Tariff Schedule of the United States.” See 19 U.S.C. 3902(9) and 31 CFR 592.310. In regard to import violations, the Act and regulations provide for seizure and forfeiture, criminal penalties as well as a civil penalty of up to \$10,000 for any violation of the Act. See 19 U.S.C. 3907(b) and 31 CFR 592.601. Additionally, both specify that “[t]hose customs laws of the United States, both civil and criminal, including those laws relating to seizure and forfeiture, that apply to articles imported in violation of such laws shall apply with respect to rough diamonds imported in violation of this Act.” See 19 U.S.C. 3907(c) and 31 CFR 592.601. CBP is authorized, along with U.S. Immigration and Customs Enforcement (“ICE”), as appropriate, to enforce the penalty provisions cited above and to enforce the laws and regulations governing exports of rough diamonds. See 19 U.S.C. 3907(c) and 31 CFR 592.601. CBP is also authorized to remit forfeitures and mitigate penalties under 19 U.S.C. 1618. To assist in this process, CBP has

prepared new guidelines for the remission of forfeitures and the mitigation of penalties under the Clean Diamond Trade Act. The text of these guidelines is set forth below.

Dated: March 18, 2009

JAYSON P. AHERN,
*Acting Commissioner,
Customs and Border Protection.*

CLEAN DIAMOND TRADE ACT (CDTA), KIMBERLEY PROCESS CERTIFICATION SCHEME (KPCS) FOR ROUGH DIAMONDS – 19 U.S.C. 3901 *ET SEQ.*

I. In General

These provisions and procedures are applicable when rough diamonds are imported into, or exported from, the United States in contravention of the Clean Diamond Trade Act (CDTA), which is codified at 19 U.S.C. 3901 *et seq.* Regulations implementing the CDTA are found at 31 CFR Part 592 (the Rough Diamonds Control Regulations). Under the CDTA, the importation into, or exportation from, the United States of any rough diamond, from whatever source, that has not been controlled through the Kimberley Process Certification Scheme (KPCS), is prohibited.

A “rough diamond” is defined as any diamond that is unworked or simply sawn, cleaved, or bruted, and classifiable under subheading 7102.10, 7102.21 or 7102.31 of the Harmonized Tariff Schedule of the United States (HTSUS). 19 U.S.C. § 3902 (9), 31 CFR 592.310.

II. CDTA Requirements

Shipments of rough diamonds imported into, or exported from, the United States must be controlled through the KPCS. 31 CFR 592.301(a). In order to be controlled through the KPCS, shipments of rough diamonds must meet the following requirements:

- A. Shipments of rough diamonds must be accompanied by an original Kimberley Process Certificate. 31 CFR 592.301(a)(1); and
- B. Shipments of rough diamonds must be sealed in a tamper-resistant container. 31 CFR 592.301(a)(2).

III. Elements of Violation

Importation into, or exportation from, the United States of any rough diamond, from whatever source, that has not been controlled through the KPCS, is a violation. 19 U.S.C. 3903; 31 CFR 592.201(a).

IV. Violator's Liability

- A. Seizure and forfeiture of the shipment of rough diamonds pursuant to 19 U.S.C. 1595a(c)(2)(B) and 19 U.S.C. 1595a(c)(2)(A) for importation, or 19 U.S.C. 1595a(d) for exportation, and
- B. A penalty not to exceed \$10,000. 19 U.S.C. 3907(a)(1); 31 CFR 592.601(a)(1).

V. Forfeiture Remission

Remission of any forfeiture of shipments of rough diamonds found to be imported into, or exported from, the United States in a manner that was not controlled through the KPCS may be granted only in extraordinary circumstances, where it is established by substantial evidence that: (i) the rough diamonds were, at one time, controlled through the KPCS, and (ii) the actual custody and control of the diamonds, since falling out of control of the KPCS, is fully established. In such extraordinary circumstances, the deciding officer may, within his or her discretion, remit shipments of rough diamonds upon payment of an amount between \$3,000 and \$10,000 per violation, depending on the presence of mitigating factors.

VI. Penalty Mitigation

- A. There shall be no mitigation if there is evidence that gives CBP reason to believe there was tampering or that the CDTA violation was intentional.
- B. Mitigated Penalty for First Offense. For violations that constitute the first offense, the liabilities shall be remitted upon payment of an amount between \$3,000 and \$10,000, depending on the presence of mitigating factors.
- C. Mitigated Penalty for Second Offense. For violations that constitute the second offense, the liabilities shall be remitted upon payment of an amount between \$5,000 and \$10,000, depending on the presence of mitigating factors.
- D. Mitigated Penalty for Third Offense. For violations that constitute third or subsequent offenses, there shall be no mitigation.

VII. Mitigating Factors

- A. Mitigating Factors.
 - 1. Substantial evidence that: (i) the rough diamonds were, at one time, controlled through the KPCS, and (ii) the actual custody and control of the diamonds, since falling out of control of the KPCS, is fully established.

2. Prior good record of the violator.
 3. The deciding officer determines that there has been contributory CBP error.
- B. Extraordinary Mitigating Factors. If extraordinary mitigating factors are present, the deciding officer may, within his or her discretion, mitigate to an amount below those provided for in these guidelines.



(CBP Dec. 09–08)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR
OCTOBER, 2008

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): October 13, 2008

European Union euro:

| | |
|-----------------------|----------|
| October 1, 2008..... | 1.405800 |
| October 2, 2008..... | 1.385400 |
| October 3, 2008..... | 1.381600 |
| October 4, 2008..... | 1.381600 |
| October 5, 2008..... | 1.381600 |
| October 6, 2008..... | 1.350800 |
| October 7, 2008..... | 1.364900 |
| October 8, 2008..... | 1.368000 |
| October 9, 2008..... | 1.364600 |
| October 10, 2008..... | 1.347100 |
| October 11, 2008..... | 1.347100 |
| October 12, 2008..... | 1.347100 |
| October 13, 2008..... | 1.347100 |
| October 14, 2008..... | 1.365800 |
| October 15, 2008..... | 1.356700 |
| October 16, 2008..... | 1.341600 |
| October 17, 2008..... | 1.346200 |
| October 18, 2008..... | 1.346200 |
| October 19, 2008..... | 1.346200 |
| October 20, 2008..... | 1.331400 |
| October 21, 2008..... | 1.310200 |
| October 22, 2008..... | 1.283500 |
| October 23, 2008..... | 1.287800 |
| October 24, 2008..... | 1.265700 |
| October 25, 2008..... | 1.265700 |

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly
list for October, 2008 (continued):

European Union euro: (continued):

| | |
|-----------------------|----------|
| October 26, 2008..... | 1.265700 |
| October 27, 2008..... | 1.244600 |
| October 28, 2008..... | 1.247600 |
| October 29, 2008..... | 1.285100 |
| October 30, 2008..... | 1.285000 |
| October 31, 2008..... | 1.268200 |

South Korea won:

| | |
|-----------------------|----------|
| October 1, 2008..... | 0.000837 |
| October 2, 2008..... | 0.000818 |
| October 3, 2008..... | 0.000819 |
| October 4, 2008..... | 0.000819 |
| October 5, 2008..... | 0.000819 |
| October 6, 2008..... | 0.000789 |
| October 7, 2008..... | 0.000753 |
| October 8, 2008..... | 0.000707 |
| October 9, 2008..... | 0.000724 |
| October 10, 2008..... | 0.000765 |
| October 11, 2008..... | 0.000765 |
| October 12, 2008..... | 0.000765 |
| October 13, 2008..... | 0.000765 |
| October 14, 2008..... | 0.000828 |
| October 15, 2008..... | 0.000808 |
| October 16, 2008..... | 0.000730 |
| October 17, 2008..... | 0.000750 |
| October 18, 2008..... | 0.000750 |
| October 19, 2008..... | 0.000750 |
| October 20, 2008..... | 0.000760 |
| October 21, 2008..... | 0.000758 |
| October 22, 2008..... | 0.000705 |
| October 23, 2008..... | 0.000710 |
| October 24, 2008..... | 0.000704 |
| October 25, 2008..... | 0.000704 |
| October 26, 2008..... | 0.000704 |
| October 27, 2008..... | 0.000694 |
| October 28, 2008..... | 0.000681 |
| October 29, 2008..... | 0.000701 |
| October 30, 2008..... | 0.000800 |
| October 31, 2008..... | 0.000783 |

Taiwan N.T. dollar:

| | |
|----------------------|----------|
| October 1, 2008..... | 0.031114 |
| October 2, 2008..... | 0.031114 |
| October 3, 2008..... | 0.031104 |
| October 4, 2008..... | 0.031104 |
| October 5, 2008..... | 0.031104 |
| October 6, 2008..... | 0.030921 |
| October 7, 2008..... | 0.030893 |
| October 8, 2008..... | 0.030817 |
| October 9, 2008..... | 0.030826 |

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for October, 2008 (continued):

Taiwan N.T. dollar: (continued):

| | |
|------------------|----------|
| October 10, 2008 | 0.030826 |
| October 11, 2008 | 0.030826 |
| October 12, 2008 | 0.030826 |
| October 13, 2008 | 0.030826 |
| October 14, 2008 | 0.030864 |
| October 15, 2008 | 0.030883 |
| October 16, 2008 | 0.030722 |
| October 17, 2008 | 0.030703 |
| October 18, 2008 | 0.030703 |
| October 19, 2008 | 0.030703 |
| October 20, 2008 | 0.030694 |
| October 21, 2008 | 0.030488 |
| October 22, 2008 | 0.030321 |
| October 23, 2008 | 0.029913 |
| October 24, 2008 | 0.029886 |
| October 25, 2008 | 0.029886 |
| October 26, 2008 | 0.029886 |
| October 27, 2008 | 0.029851 |
| October 28, 2008 | 0.029895 |
| October 29, 2008 | 0.030120 |
| October 30, 2008 | 0.030534 |
| October 31, 2008 | 0.030331 |

Dated: November 1, 2008

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



(CBP Dec. 09–09)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR OCTOBER, 2008

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 08–56 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): October 13, 2008

Australia dollar:

| | |
|-----------------|----------|
| October 6, 2008 | 0.713900 |
|-----------------|----------|

FOREIGN CURRENCIES—Variances from quarterly rates for October,
2008 (continued):

Australia dollar: (continued):

| | |
|-----------------------|----------|
| October 7, 2008..... | 0.721600 |
| October 8, 2008..... | 0.669000 |
| October 9, 2008..... | 0.701500 |
| October 10, 2008..... | 0.653100 |
| October 11, 2008..... | 0.653100 |
| October 12, 2008..... | 0.653100 |
| October 13, 2008..... | 0.653100 |
| October 14, 2008..... | 0.705400 |
| October 15, 2008..... | 0.683300 |
| October 16, 2008..... | 0.670800 |
| October 17, 2008..... | 0.690700 |
| October 18, 2008..... | 0.690700 |
| October 19, 2008..... | 0.690700 |
| October 20, 2008..... | 0.696900 |
| October 21, 2008..... | 0.681300 |
| October 22, 2008..... | 0.669800 |
| October 23, 2008..... | 0.665700 |
| October 24, 2008..... | 0.619500 |
| October 25, 2008..... | 0.619500 |
| October 26, 2008..... | 0.619500 |
| October 27, 2008..... | 0.607300 |
| October 28, 2008..... | 0.625200 |
| October 29, 2008..... | 0.668300 |
| October 30, 2008..... | 0.669500 |
| October 31, 2008..... | 0.657400 |

Brazil real:

| | |
|-----------------------|----------|
| October 6, 2008..... | 0.461979 |
| October 7, 2008..... | 0.448229 |
| October 8, 2008..... | 0.415628 |
| October 9, 2008..... | 0.454545 |
| October 10, 2008..... | 0.435313 |
| October 11, 2008..... | 0.435313 |
| October 12, 2008..... | 0.435313 |
| October 13, 2008..... | 0.435313 |
| October 14, 2008..... | 0.479501 |
| October 15, 2008..... | 0.461894 |
| October 16, 2008..... | 0.456100 |
| October 17, 2008..... | 0.471698 |
| October 18, 2008..... | 0.471698 |
| October 19, 2008..... | 0.471698 |
| October 20, 2008..... | 0.474834 |
| October 21, 2008..... | 0.451875 |
| October 22, 2008..... | 0.420875 |
| October 23, 2008..... | 0.439174 |
| October 24, 2008..... | 0.437733 |
| October 25, 2008..... | 0.437733 |
| October 26, 2008..... | 0.437733 |
| October 27, 2008..... | 0.443459 |
| October 28, 2008..... | 0.457415 |
| October 29, 2008..... | 0.470367 |
| October 30, 2008..... | 0.469263 |

FOREIGN CURRENCIES—Variances from quarterly rates for October, 2008 (continued):

Brazil real: (continued):

October 31, 2008 0.471032

Canada dollar:

October 8, 2008 0.889205
 October 9, 2008 0.870853
 October 10, 2008 0.840336
 October 11, 2008 0.840336
 October 12, 2008 0.840336
 October 13, 2008 0.840336
 October 14, 2008 0.862143
 October 15, 2008 0.847170
 October 16, 2008 0.836610
 October 17, 2008 0.846024
 October 18, 2008 0.846024
 October 19, 2008 0.846024
 October 20, 2008 0.834934
 October 21, 2008 0.819135
 October 22, 2008 0.800256
 October 23, 2008 0.795355
 October 24, 2008 0.785238
 October 25, 2008 0.785238
 October 26, 2008 0.785238
 October 27, 2008 0.773096
 October 28, 2008 0.772678
 October 29, 2008 0.812876
 October 30, 2008 0.817728
 October 31, 2008 0.822504

Denmark krone:

October 20, 2008 0.178619
 October 21, 2008 0.175824
 October 22, 2008 0.172176
 October 23, 2008 0.172688
 October 24, 2008 0.169805
 October 25, 2008 0.169805
 October 26, 2008 0.169805
 October 27, 2008 0.167093
 October 28, 2008 0.167462
 October 29, 2008 0.172497
 October 30, 2008 0.172580
 October 31, 2008 0.170407

India rupee:

October 16, 2008 0.020458
 October 17, 2008 0.020458
 October 18, 2008 0.020458
 October 19, 2008 0.020458
 October 20, 2008 0.020425
 October 21, 2008 0.020367
 October 22, 2008 0.020305

FOREIGN CURRENCIES—Variances from quarterly rates for October, 2008 (continued):

India rupee: (continued):

| | |
|------------------|----------|
| October 23, 2008 | 0.020072 |
| October 24, 2008 | 0.020008 |
| October 25, 2008 | 0.020008 |
| October 26, 2008 | 0.020008 |
| October 27, 2008 | 0.020080 |
| October 28, 2008 | 0.020173 |
| October 29, 2008 | 0.020117 |
| October 30, 2008 | 0.020129 |
| October 31, 2008 | 0.020243 |

Japan yen:

| | |
|------------------|----------|
| October 8, 2008 | 0.010027 |
| October 9, 2008 | 0.009933 |
| October 10, 2008 | 0.010056 |
| October 11, 2008 | 0.010056 |
| October 12, 2008 | 0.010056 |
| October 13, 2008 | 0.010056 |
| October 16, 2008 | 0.009954 |
| October 21, 2008 | 0.009957 |
| October 22, 2008 | 0.010139 |
| October 23, 2008 | 0.010246 |
| October 24, 2008 | 0.010617 |
| October 25, 2008 | 0.010617 |
| October 26, 2008 | 0.010617 |
| October 27, 2008 | 0.010720 |
| October 28, 2008 | 0.010452 |
| October 29, 2008 | 0.010259 |
| October 30, 2008 | 0.010260 |
| October 31, 2008 | 0.010175 |

Mexico peso:

| | |
|------------------|----------|
| October 6, 2008 | 0.085448 |
| October 7, 2008 | 0.082542 |
| October 8, 2008 | 0.076109 |
| October 9, 2008 | 0.080783 |
| October 10, 2008 | 0.077036 |
| October 11, 2008 | 0.077036 |
| October 12, 2008 | 0.077036 |
| October 13, 2008 | 0.077036 |
| October 14, 2008 | 0.080483 |
| October 15, 2008 | 0.078592 |
| October 16, 2008 | 0.076278 |
| October 17, 2008 | 0.077941 |
| October 18, 2008 | 0.077941 |
| October 19, 2008 | 0.077941 |
| October 20, 2008 | 0.078241 |
| October 21, 2008 | 0.075844 |
| October 22, 2008 | 0.073563 |
| October 23, 2008 | 0.073475 |
| October 24, 2008 | 0.075067 |
| October 25, 2008 | 0.075067 |

FOREIGN CURRENCIES—Variances from quarterly rates for October,
2008 (continued):

Mexico peso: (continued):

| | |
|------------------------|----------|
| October 26, 2008 | 0.075067 |
| October 27, 2008 | 0.075334 |
| October 28, 2008 | 0.074833 |
| October 29, 2008 | 0.077380 |
| October 30, 2008 | 0.077730 |
| October 31, 2008 | 0.078709 |

New Zealand dollar:

| | |
|------------------------|----------|
| October 6, 2008 | 0.626400 |
| October 7, 2008 | 0.636200 |
| October 8, 2008 | 0.601700 |
| October 9, 2008 | 0.617100 |
| October 10, 2008 | 0.596000 |
| October 11, 2008 | 0.596000 |
| October 12, 2008 | 0.596000 |
| October 13, 2008 | 0.596000 |
| October 14, 2008 | 0.624700 |
| October 15, 2008 | 0.618400 |
| October 16, 2008 | 0.610200 |
| October 17, 2008 | 0.615300 |
| October 18, 2008 | 0.615300 |
| October 19, 2008 | 0.615300 |
| October 20, 2008 | 0.619500 |
| October 21, 2008 | 0.612200 |
| October 22, 2008 | 0.593700 |
| October 23, 2008 | 0.589200 |
| October 24, 2008 | 0.557700 |
| October 25, 2008 | 0.557700 |
| October 26, 2008 | 0.557700 |
| October 27, 2008 | 0.541000 |
| October 28, 2008 | 0.552800 |
| October 29, 2008 | 0.585500 |
| October 30, 2008 | 0.587700 |
| October 31, 2008 | 0.581500 |

Norway krone:

| | |
|------------------------|----------|
| October 6, 2008 | 0.160185 |
| October 10, 2008 | 0.158889 |
| October 11, 2008 | 0.158889 |
| October 12, 2008 | 0.158889 |
| October 13, 2008 | 0.158889 |
| October 14, 2008 | 0.160059 |
| October 15, 2008 | 0.156944 |
| October 16, 2008 | 0.151895 |
| October 17, 2008 | 0.153506 |
| October 18, 2008 | 0.153506 |
| October 19, 2008 | 0.153506 |
| October 20, 2008 | 0.151035 |
| October 21, 2008 | 0.146518 |
| October 22, 2008 | 0.141483 |
| October 23, 2008 | 0.143359 |

FOREIGN CURRENCIES—Variances from quarterly rates for October, 2008 (continued):

Norway krone: (continued):

| | |
|------------------------|----------|
| October 24, 2008 | 0.145321 |
| October 25, 2008 | 0.145321 |
| October 26, 2008 | 0.145321 |
| October 27, 2008 | 0.142326 |
| October 28, 2008 | 0.144739 |
| October 29, 2008 | 0.149082 |
| October 30, 2008 | 0.149405 |
| October 31, 2008 | 0.149056 |

Republic of South Africa rand:

| | |
|------------------------|----------|
| October 6, 2008 | 0.113116 |
| October 7, 2008 | 0.112867 |
| October 8, 2008 | 0.108372 |
| October 9, 2008 | 0.111080 |
| October 10, 2008 | 0.106045 |
| October 11, 2008 | 0.106045 |
| October 12, 2008 | 0.106045 |
| October 13, 2008 | 0.106045 |
| October 14, 2008 | 0.111297 |
| October 15, 2008 | 0.105319 |
| October 16, 2008 | 0.097295 |
| October 17, 2008 | 0.099231 |
| October 18, 2008 | 0.099231 |
| October 19, 2008 | 0.099231 |
| October 20, 2008 | 0.098377 |
| October 21, 2008 | 0.093743 |
| October 22, 2008 | 0.088731 |
| October 23, 2008 | 0.090744 |
| October 24, 2008 | 0.091743 |
| October 25, 2008 | 0.091743 |
| October 26, 2008 | 0.091743 |
| October 27, 2008 | 0.091220 |
| October 28, 2008 | 0.093897 |
| October 29, 2008 | 0.100000 |
| October 30, 2008 | 0.099128 |
| October 31, 2008 | 0.101317 |

Singapore dollar:

| | |
|------------------------|----------|
| October 27, 2008 | 0.661770 |
|------------------------|----------|

Sweden krona:

| | |
|------------------------|----------|
| October 15, 2008 | 0.136221 |
| October 16, 2008 | 0.134253 |
| October 17, 2008 | 0.135172 |
| October 18, 2008 | 0.135172 |
| October 19, 2008 | 0.135172 |
| October 20, 2008 | 0.133688 |
| October 21, 2008 | 0.130438 |
| October 22, 2008 | 0.127729 |
| October 23, 2008 | 0.129420 |

FOREIGN CURRENCIES—Variances from quarterly rates for October, 2008 (continued):

Sweden krona: (continued):

| | |
|------------------------|----------|
| October 24, 2008 | 0.127269 |
| October 25, 2008 | 0.127269 |
| October 26, 2008 | 0.127269 |
| October 27, 2008 | 0.123755 |
| October 28, 2008 | 0.124372 |
| October 29, 2008 | 0.130185 |
| October 30, 2008 | 0.129796 |
| October 31, 2008 | 0.128508 |

United Kingdom pound sterling:

| | |
|------------------------|----------|
| October 21, 2008 | 1.683700 |
| October 22, 2008 | 1.617400 |
| October 23, 2008 | 1.618100 |
| October 24, 2008 | 1.584500 |
| October 25, 2008 | 1.584500 |
| October 26, 2008 | 1.584500 |
| October 27, 2008 | 1.547200 |
| October 28, 2008 | 1.559100 |
| October 29, 2008 | 1.629800 |
| October 30, 2008 | 1.627000 |
| October 31, 2008 | 1.616500 |

Dated: November 1, 2008

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



(CBP Dec. 09–10)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR
NOVEMBER, 2008

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, 2008
November 27, 2008

European Union euro:

| | |
|------------------------|----------|
| November 1, 2008..... | 1.268200 |
| November 2, 2008..... | 1.268200 |
| November 3, 2008..... | 1.271900 |
| November 4, 2008..... | 1.302100 |
| November 5, 2008..... | 1.303900 |
| November 6, 2008..... | 1.275600 |
| November 7, 2008..... | 1.277700 |
| November 8, 2008..... | 1.277700 |
| November 9, 2008..... | 1.277700 |
| November 10, 2008..... | 1.276000 |
| November 11, 2008..... | 1.276000 |
| November 12, 2008..... | 1.255800 |
| November 13, 2008..... | 1.252600 |
| November 14, 2008..... | 1.273100 |
| November 15, 2008..... | 1.273100 |
| November 16, 2008..... | 1.273100 |
| November 17, 2008..... | 1.272600 |
| November 18, 2008..... | 1.269000 |
| November 19, 2008..... | 1.259500 |
| November 20, 2008..... | 1.252500 |
| November 21, 2008..... | 1.253100 |
| November 22, 2008..... | 1.253100 |
| November 23, 2008..... | 1.253100 |
| November 24, 2008..... | 1.289000 |
| November 25, 2008..... | 1.303000 |
| November 26, 2008..... | 1.282800 |
| November 27, 2008..... | 1.282800 |
| November 28, 2008..... | 1.269400 |
| November 29, 2008..... | 1.269400 |
| November 30, 2008..... | 1.269400 |

South Korea won:

| | |
|-----------------------|----------|
| November 1, 2008..... | 0.000783 |
| November 2, 2008..... | 0.000783 |
| November 3, 2008..... | 0.000792 |
| November 4, 2008..... | 0.000776 |
| November 5, 2008..... | 0.000790 |

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly
list for November, 2008 (continued):

South Korea won: (continued):

| | |
|------------------------|----------|
| November 6, 2008..... | 0.000751 |
| November 7, 2008..... | 0.000763 |
| November 8, 2008..... | 0.000763 |
| November 9, 2008..... | 0.000763 |
| November 10, 2008..... | 0.000754 |
| November 11, 2008..... | 0.000754 |
| November 12, 2008..... | 0.000738 |
| November 13, 2008..... | 0.000718 |
| November 14, 2008..... | 0.000715 |
| November 15, 2008..... | 0.000715 |
| November 16, 2008..... | 0.000715 |
| November 17, 2008..... | 0.000709 |
| November 18, 2008..... | 0.000691 |
| November 19, 2008..... | 0.000692 |
| November 20, 2008..... | 0.000668 |
| November 21, 2008..... | 0.000670 |
| November 22, 2008..... | 0.000670 |
| November 23, 2008..... | 0.000670 |
| November 24, 2008..... | 0.000663 |
| November 25, 2008..... | 0.000666 |
| November 26, 2008..... | 0.000677 |
| November 27, 2008..... | 0.000677 |
| November 28, 2008..... | 0.000681 |
| November 29, 2008..... | 0.000681 |
| November 30, 2008..... | 0.000681 |

Taiwan N.T. dollar:

| | |
|------------------------|----------|
| November 1, 2008..... | 0.030331 |
| November 2, 2008..... | 0.030331 |
| November 3, 2008..... | 0.030432 |
| November 4, 2008..... | 0.030432 |
| November 5, 2008..... | 0.030469 |
| November 6, 2008..... | 0.030488 |
| November 7, 2008..... | 0.030479 |
| November 8, 2008..... | 0.030479 |
| November 9, 2008..... | 0.030479 |
| November 10, 2008..... | 0.030516 |
| November 11, 2008..... | 0.030516 |
| November 12, 2008..... | 0.030349 |
| November 13, 2008..... | 0.030139 |
| November 14, 2008..... | 0.030257 |
| November 15, 2008..... | 0.030257 |
| November 16, 2008..... | 0.030257 |
| November 17, 2008..... | 0.030157 |
| November 18, 2008..... | 0.030093 |
| November 19, 2008..... | 0.030066 |
| November 20, 2008..... | 0.029922 |
| November 21, 2008..... | 0.029940 |
| November 22, 2008..... | 0.029940 |
| November 23, 2008..... | 0.029940 |
| November 24, 2008..... | 0.029940 |

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for November, 2008 (continued):

Taiwan N.T. dollar: (continued):

| | |
|-------------------------|----------|
| November 25, 2008 | 0.029994 |
| November 26, 2008 | 0.030075 |
| November 27, 2008 | 0.030075 |
| November 28, 2008 | 0.030039 |
| November 29, 2008 | 0.030039 |
| November 30, 2008 | 0.030039 |

Dated: December 1, 2008

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



(CBP Dec.09-11)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR NOVEMBER, 2008

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 09-09 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, 2008
November 27, 2008

Australia dollar:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.657400 |
| November 02, 2008 | 0.657400 |
| November 03, 2008 | 0.682300 |
| November 04, 2008 | 0.700500 |
| November 05, 2008 | 0.697200 |
| November 06, 2008 | 0.679000 |
| November 07, 2008 | 0.672600 |
| November 08, 2008 | 0.672600 |
| November 09, 2008 | 0.672600 |
| November 10, 2008 | 0.675500 |
| November 11, 2008 | 0.675500 |
| November 12, 2008 | 0.644900 |
| November 13, 2008 | 0.640200 |
| November 14, 2008 | 0.662700 |
| November 15, 2008 | 0.662700 |

FOREIGN CURRENCIES—Variances from quarterly rates for
November, 2008 (continued):

Australia dollar: (continued):

| | |
|-------------------------|----------|
| November 16, 2008 | 0.662700 |
| November 17, 2008 | 0.656200 |
| November 18, 2008 | 0.657500 |
| November 19, 2008 | 0.650100 |
| November 20, 2008 | 0.619100 |
| November 21, 2008 | 0.625400 |
| November 22, 2008 | 0.625400 |
| November 23, 2008 | 0.625400 |
| November 24, 2008 | 0.650100 |
| November 25, 2008 | 0.648800 |
| November 26, 2008 | 0.647000 |
| November 27, 2008 | 0.647000 |
| November 28, 2008 | 0.654600 |
| November 29, 2008 | 0.654600 |
| November 30, 2008 | 0.654600 |

Brazil real:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.471032 |
| November 02, 2008 | 0.471032 |
| November 03, 2008 | 0.460066 |
| November 04, 2008 | 0.476304 |
| November 05, 2008 | 0.471476 |
| November 06, 2008 | 0.457352 |
| November 07, 2008 | 0.464619 |
| November 08, 2008 | 0.464619 |
| November 09, 2008 | 0.464619 |
| November 10, 2008 | 0.460829 |
| November 11, 2008 | 0.460829 |
| November 12, 2008 | 0.438885 |
| November 13, 2008 | 0.428725 |
| November 14, 2008 | 0.439445 |
| November 15, 2008 | 0.439445 |
| November 16, 2008 | 0.439445 |
| November 17, 2008 | 0.434122 |
| November 18, 2008 | 0.435066 |
| November 19, 2008 | 0.418515 |
| November 20, 2008 | 0.417537 |
| November 21, 2008 | 0.407166 |
| November 22, 2008 | 0.407166 |
| November 23, 2008 | 0.407166 |
| November 24, 2008 | 0.430793 |
| November 25, 2008 | 0.434556 |
| November 26, 2008 | 0.433651 |
| November 27, 2008 | 0.433651 |
| November 28, 2008 | 0.433388 |
| November 29, 2008 | 0.433388 |
| November 30, 2008 | 0.433388 |

Canada dollar:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.822504 |
| November 02, 2008 | 0.822504 |

FOREIGN CURRENCIES—Variances from quarterly rates for
November, 2008 (continued):

Canada dollar: (continued):

| | |
|-------------------------|----------|
| November 03, 2008 | 0.842744 |
| November 04, 2008 | 0.869414 |
| November 05, 2008 | 0.862813 |
| November 06, 2008 | 0.846310 |
| November 07, 2008 | 0.845309 |
| November 08, 2008 | 0.845309 |
| November 09, 2008 | 0.845309 |
| November 10, 2008 | 0.836960 |
| November 11, 2008 | 0.836960 |
| November 12, 2008 | 0.813273 |
| November 13, 2008 | 0.812282 |
| November 14, 2008 | 0.816927 |
| November 15, 2008 | 0.816927 |
| November 16, 2008 | 0.816927 |
| November 17, 2008 | 0.818800 |
| November 18, 2008 | 0.817194 |
| November 19, 2008 | 0.808407 |
| November 20, 2008 | 0.778210 |
| November 21, 2008 | 0.778271 |
| November 22, 2008 | 0.778271 |
| November 23, 2008 | 0.778271 |
| November 24, 2008 | 0.816593 |
| November 25, 2008 | 0.818733 |
| November 26, 2008 | 0.810504 |
| November 27, 2008 | 0.810504 |
| November 28, 2008 | 0.809061 |
| November 29, 2008 | 0.809061 |
| November 30, 2008 | 0.809061 |

Denmark krone:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.170407 |
| November 02, 2008 | 0.170407 |
| November 03, 2008 | 0.170882 |
| November 04, 2008 | 0.174997 |
| November 05, 2008 | 0.175211 |
| November 06, 2008 | 0.171374 |
| November 07, 2008 | 0.171653 |
| November 08, 2008 | 0.171653 |
| November 09, 2008 | 0.171653 |
| November 10, 2008 | 0.171394 |
| November 11, 2008 | 0.171394 |
| November 12, 2008 | 0.168648 |
| November 13, 2008 | 0.168177 |
| November 14, 2008 | 0.170961 |
| November 15, 2008 | 0.170961 |
| November 16, 2008 | 0.170961 |
| November 17, 2008 | 0.170873 |
| November 18, 2008 | 0.170358 |
| November 19, 2008 | 0.169025 |
| November 20, 2008 | 0.168118 |
| November 21, 2008 | 0.168112 |
| November 22, 2008 | 0.168112 |

FOREIGN CURRENCIES—Variances from quarterly rates for
November, 2008 (continued):

Denmark krone: (continued):

| | |
|-------------------------|----------|
| November 23, 2008 | 0.168112 |
| November 24, 2008 | 0.172977 |
| November 25, 2008 | 0.174877 |
| November 26, 2008 | 0.172120 |
| November 27, 2008 | 0.172120 |
| November 28, 2008 | 0.170442 |
| November 29, 2008 | 0.170442 |
| November 30, 2008 | 0.170442 |

India rupee:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.020243 |
| November 02, 2008 | 0.020243 |
| November 12, 2008 | 0.020325 |
| November 13, 2008 | 0.020408 |
| November 17, 2008 | 0.020329 |
| November 18, 2008 | 0.020198 |
| November 19, 2008 | 0.020064 |
| November 20, 2008 | 0.019952 |
| November 21, 2008 | 0.020190 |
| November 22, 2008 | 0.020190 |
| November 23, 2008 | 0.020190 |
| November 24, 2008 | 0.020024 |
| November 25, 2008 | 0.020052 |
| November 26, 2008 | 0.020333 |
| November 27, 2008 | 0.020333 |
| November 28, 2008 | 0.020182 |
| November 29, 2008 | 0.020182 |
| November 30, 2008 | 0.020182 |

Japan yen:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.010175 |
| November 02, 2008 | 0.010175 |
| November 03, 2008 | 0.010106 |
| November 04, 2008 | 0.009952 |
| November 05, 2008 | 0.010106 |
| November 06, 2008 | 0.010200 |
| November 07, 2008 | 0.010188 |
| November 08, 2008 | 0.010188 |
| November 09, 2008 | 0.010188 |
| November 10, 2008 | 0.010208 |
| November 11, 2008 | 0.010208 |
| November 12, 2008 | 0.010467 |
| November 13, 2008 | 0.010422 |
| November 14, 2008 | 0.010346 |
| November 15, 2008 | 0.010346 |
| November 16, 2008 | 0.010346 |
| November 17, 2008 | 0.010306 |
| November 18, 2008 | 0.010269 |
| November 19, 2008 | 0.010336 |
| November 20, 2008 | 0.010529 |
| November 21, 2008 | 0.010480 |

FOREIGN CURRENCIES—Variances from quarterly rates for
November, 2008 (continued):

Japan yen: (continued):

| | |
|-------------------------|----------|
| November 22, 2008 | 0.010480 |
| November 23, 2008 | 0.010480 |
| November 24, 2008 | 0.010342 |
| November 25, 2008 | 0.010468 |
| November 26, 2008 | 0.010476 |
| November 27, 2008 | 0.010476 |
| November 28, 2008 | 0.010476 |
| November 29, 2008 | 0.010476 |
| November 30, 2008 | 0.010476 |

Malaysia ringgit:

| | |
|-------------------------|----------|
| November 20, 2008 | 0.276167 |
| November 21, 2008 | 0.276243 |
| November 22, 2008 | 0.276243 |
| November 23, 2008 | 0.276243 |
| November 24, 2008 | 0.275710 |
| November 25, 2008 | 0.276319 |
| November 26, 2008 | 0.276243 |
| November 27, 2008 | 0.276243 |
| November 28, 2008 | 0.276167 |
| November 29, 2008 | 0.276167 |
| November 30, 2008 | 0.276167 |

Mexico peso:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.078709 |
| November 02, 2008 | 0.078709 |
| November 03, 2008 | 0.078137 |
| November 04, 2008 | 0.080186 |
| November 05, 2008 | 0.079139 |
| November 06, 2008 | 0.077160 |
| November 07, 2008 | 0.077803 |
| November 08, 2008 | 0.077803 |
| November 09, 2008 | 0.077803 |
| November 10, 2008 | 0.078034 |
| November 11, 2008 | 0.078034 |
| November 12, 2008 | 0.076365 |
| November 13, 2008 | 0.075245 |
| November 14, 2008 | 0.076907 |
| November 15, 2008 | 0.076907 |
| November 16, 2008 | 0.076907 |
| November 17, 2008 | 0.076453 |
| November 18, 2008 | 0.076075 |
| November 19, 2008 | 0.076038 |
| November 20, 2008 | 0.073741 |
| November 21, 2008 | 0.071762 |
| November 22, 2008 | 0.071762 |
| November 23, 2008 | 0.071762 |
| November 24, 2008 | 0.074283 |
| November 25, 2008 | 0.075352 |
| November 26, 2008 | 0.075643 |
| November 27, 2008 | 0.075643 |

FOREIGN CURRENCIES—Variances from quarterly rates for
November, 2008 (continued):

Mexico peso: (continued):

| | |
|-------------------------|----------|
| November 28, 2008 | 0.074683 |
| November 29, 2008 | 0.074683 |
| November 30, 2008 | 0.074683 |

New Zealand dollar:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.581500 |
| November 02, 2008 | 0.581500 |
| November 03, 2008 | 0.597500 |
| November 04, 2008 | 0.612500 |
| November 05, 2008 | 0.607500 |
| November 06, 2008 | 0.596400 |
| November 07, 2008 | 0.589800 |
| November 08, 2008 | 0.589800 |
| November 09, 2008 | 0.589800 |
| November 10, 2008 | 0.587100 |
| November 11, 2008 | 0.587100 |
| November 12, 2008 | 0.564000 |
| November 13, 2008 | 0.556200 |
| November 14, 2008 | 0.562400 |
| November 15, 2008 | 0.562400 |
| November 16, 2008 | 0.562400 |
| November 17, 2008 | 0.560100 |
| November 18, 2008 | 0.555000 |
| November 19, 2008 | 0.550600 |
| November 20, 2008 | 0.531200 |
| November 21, 2008 | 0.531300 |
| November 22, 2008 | 0.531300 |
| November 23, 2008 | 0.531300 |
| November 24, 2008 | 0.547100 |
| November 25, 2008 | 0.546900 |
| November 26, 2008 | 0.549200 |
| November 27, 2008 | 0.549200 |
| November 28, 2008 | 0.550000 |
| November 29, 2008 | 0.550000 |
| November 30, 2008 | 0.550000 |

Norway krone:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.149056 |
| November 02, 2008 | 0.149056 |
| November 03, 2008 | 0.149573 |
| November 04, 2008 | 0.151676 |
| November 05, 2008 | 0.149571 |
| November 06, 2008 | 0.145832 |
| November 07, 2008 | 0.145964 |
| November 08, 2008 | 0.145964 |
| November 09, 2008 | 0.145964 |
| November 10, 2008 | 0.147126 |
| November 11, 2008 | 0.147126 |
| November 12, 2008 | 0.141689 |
| November 13, 2008 | 0.141933 |
| November 14, 2008 | 0.145484 |

FOREIGN CURRENCIES—Variances from quarterly rates for
November, 2008 (continued):

Norway krone: (continued):

| | |
|-------------------------|----------|
| November 15, 2008 | 0.145484 |
| November 16, 2008 | 0.145484 |
| November 17, 2008 | 0.143423 |
| November 18, 2008 | 0.142927 |
| November 19, 2008 | 0.142676 |
| November 20, 2008 | 0.140032 |
| November 21, 2008 | 0.138564 |
| November 22, 2008 | 0.138564 |
| November 23, 2008 | 0.138564 |
| November 24, 2008 | 0.143719 |
| November 25, 2008 | 0.144321 |
| November 26, 2008 | 0.141832 |
| November 27, 2008 | 0.141832 |
| November 28, 2008 | 0.142814 |
| November 29, 2008 | 0.142814 |
| November 30, 2008 | 0.142814 |

Republic of South Africa rand:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.101317 |
| November 02, 2008 | 0.101317 |
| November 03, 2008 | 0.100756 |
| November 04, 2008 | 0.103837 |
| November 05, 2008 | 0.103323 |
| November 06, 2008 | 0.100452 |
| November 07, 2008 | 0.098522 |
| November 08, 2008 | 0.098522 |
| November 09, 2008 | 0.098522 |
| November 10, 2008 | 0.099325 |
| November 11, 2008 | 0.099325 |
| November 12, 2008 | 0.096337 |
| November 13, 2008 | 0.095420 |
| November 14, 2008 | 0.100000 |
| November 15, 2008 | 0.100000 |
| November 16, 2008 | 0.100000 |
| November 17, 2008 | 0.098765 |
| November 18, 2008 | 0.098328 |
| November 19, 2008 | 0.096525 |
| November 20, 2008 | 0.093985 |
| November 21, 2008 | 0.094140 |
| November 22, 2008 | 0.094140 |
| November 23, 2008 | 0.094140 |
| November 24, 2008 | 0.099330 |
| November 25, 2008 | 0.102564 |
| November 26, 2008 | 0.101010 |
| November 27, 2008 | 0.101010 |
| November 28, 2008 | 0.099010 |
| November 29, 2008 | 0.099010 |
| November 30, 2008 | 0.099010 |

Singapore dollar:

| | |
|-------------------------|----------|
| November 13, 2008 | 0.658328 |
|-------------------------|----------|

FOREIGN CURRENCIES—Variances from quarterly rates for
November, 2008 (continued):

Singapore dollar: (continued):

| | |
|-------------------------|----------|
| November 14, 2008 | 0.657678 |
| November 15, 2008 | 0.657678 |
| November 16, 2008 | 0.657678 |
| November 17, 2008 | 0.657376 |
| November 18, 2008 | 0.654879 |
| November 19, 2008 | 0.654493 |
| November 20, 2008 | 0.653339 |
| November 21, 2008 | 0.653509 |
| November 22, 2008 | 0.653509 |
| November 23, 2008 | 0.653509 |
| November 24, 2008 | 0.662164 |
| November 25, 2008 | 0.661945 |
| November 26, 2008 | 0.662339 |
| November 27, 2008 | 0.662339 |

Sweden krona:

| | |
|-------------------------|----------|
| November 01, 2008 | 0.128508 |
| November 02, 2008 | 0.128508 |
| November 03, 2008 | 0.129199 |
| November 04, 2008 | 0.131653 |
| November 05, 2008 | 0.130142 |
| November 06, 2008 | 0.127230 |
| November 07, 2008 | 0.127327 |
| November 08, 2008 | 0.127327 |
| November 09, 2008 | 0.127327 |
| November 10, 2008 | 0.127905 |
| November 11, 2008 | 0.127905 |
| November 12, 2008 | 0.124338 |
| November 13, 2008 | 0.124628 |
| November 14, 2008 | 0.127304 |
| November 15, 2008 | 0.127304 |
| November 16, 2008 | 0.127304 |
| November 17, 2008 | 0.126048 |
| November 18, 2008 | 0.125108 |
| November 19, 2008 | 0.123270 |
| November 20, 2008 | 0.121215 |
| November 21, 2008 | 0.118511 |
| November 22, 2008 | 0.118511 |
| November 23, 2008 | 0.118511 |
| November 24, 2008 | 0.124301 |
| November 25, 2008 | 0.127210 |
| November 26, 2008 | 0.123839 |
| November 27, 2008 | 0.123839 |
| November 28, 2008 | 0.123154 |
| November 29, 2008 | 0.123154 |
| November 30, 2008 | 0.123154 |

Switzerland franc:

| | |
|-------------------------|----------|
| November 10, 2008 | 0.848608 |
| November 11, 2008 | 0.848608 |

FOREIGN CURRENCIES—Variances from quarterly rates for
November, 2008 (continued):

Switzerland franc: (continued):

| | |
|-------------------------|----------|
| November 12, 2008 | 0.848176 |
| November 13, 2008 | 0.833681 |
| November 14, 2008 | 0.842460 |
| November 15, 2008 | 0.842460 |
| November 16, 2008 | 0.842460 |
| November 17, 2008 | 0.836540 |
| November 18, 2008 | 0.835003 |
| November 19, 2008 | 0.826241 |
| November 20, 2008 | 0.819874 |
| November 21, 2008 | 0.817194 |
| November 22, 2008 | 0.817194 |
| November 23, 2008 | 0.817194 |
| November 24, 2008 | 0.835561 |
| November 25, 2008 | 0.842957 |
| November 26, 2008 | 0.828912 |
| November 27, 2008 | 0.828912 |
| November 28, 2008 | 0.822030 |
| November 29, 2008 | 0.822030 |
| November 30, 2008 | 0.822030 |

United Kingdom pound sterling:

| | |
|-------------------------|----------|
| November 01, 2008 | 1.616500 |
| November 02, 2008 | 1.616500 |
| November 03, 2008 | 1.585500 |
| November 04, 2008 | 1.609500 |
| November 05, 2008 | 1.615600 |
| November 06, 2008 | 1.581400 |
| November 07, 2008 | 1.578800 |
| November 08, 2008 | 1.578800 |
| November 09, 2008 | 1.578800 |
| November 10, 2008 | 1.563900 |
| November 11, 2008 | 1.563900 |
| November 12, 2008 | 1.501200 |
| November 13, 2008 | 1.479900 |
| November 14, 2008 | 1.486000 |
| November 15, 2008 | 1.486000 |
| November 16, 2008 | 1.486000 |
| November 17, 2008 | 1.503000 |
| November 18, 2008 | 1.504200 |
| November 19, 2008 | 1.509500 |
| November 20, 2008 | 1.478900 |
| November 21, 2008 | 1.481600 |
| November 22, 2008 | 1.481600 |
| November 23, 2008 | 1.481600 |
| November 24, 2008 | 1.517700 |
| November 25, 2008 | 1.534900 |
| November 26, 2008 | 1.521800 |
| November 27, 2008 | 1.521800 |
| November 28, 2008 | 1.534800 |

FOREIGN CURRENCIES—Variances from quarterly rates for
December, 2008 (continued):

United Kingdom pound sterling: (continued):

| | |
|-------------------------|----------|
| November 29, 2008 | 1.534800 |
| November 30, 2008 | 1.534800 |

Dated: December 1, 2008

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

(CBP Dec. 09–12)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR
DECEMBER, 2008

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): December 25, 2008
December 26, 2008

European Union euro:

| | |
|-------------------------|----------|
| December 1, 2008 | 1.263400 |
| December 2, 2008 | 1.272400 |
| December 3, 2008 | 1.266900 |
| December 4, 2008 | 1.284000 |
| December 5, 2008 | 1.265400 |
| December 6, 2008 | 1.265400 |
| December 7, 2008 | 1.265400 |
| December 8, 2008 | 1.294200 |
| December 9, 2008 | 1.293700 |
| December 10, 2008 | 1.302400 |
| December 11, 2008 | 1.329400 |
| December 12, 2008 | 1.334900 |
| December 13, 2008 | 1.334900 |
| December 14, 2008 | 1.334900 |
| December 15, 2008 | 1.366400 |
| December 16, 2008 | 1.381000 |
| December 17, 2008 | 1.435800 |
| December 18, 2008 | 1.429800 |
| December 19, 2008 | 1.387500 |
| December 20, 2008 | 1.387500 |
| December 21, 2008 | 1.387500 |

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly
list for December, 2008 (continued):

European Union euro: (continued):

| | |
|------------------------|----------|
| December 22, 2008..... | 1.395200 |
| December 23, 2008..... | 1.396600 |
| December 24, 2008..... | 1.396400 |
| December 25, 2008..... | 1.396400 |
| December 26, 2008..... | 1.406200 |
| December 27, 2008..... | 1.406200 |
| December 28, 2008..... | 1.406200 |
| December 29, 2008..... | 1.423200 |
| December 30, 2008..... | 1.408500 |
| December 31, 2008..... | 1.391900 |

South Korea won:

| | |
|------------------------|----------|
| December 1, 2008..... | 0.000695 |
| December 2, 2008..... | 0.000683 |
| December 3, 2008..... | 0.000681 |
| December 4, 2008..... | 0.000676 |
| December 5, 2008..... | 0.000678 |
| December 6, 2008..... | 0.000678 |
| December 7, 2008..... | 0.000678 |
| December 8, 2008..... | 0.000692 |
| December 9, 2008..... | 0.000695 |
| December 10, 2008..... | 0.000718 |
| December 11, 2008..... | 0.000738 |
| December 12, 2008..... | 0.000730 |
| December 13, 2008..... | 0.000730 |
| December 14, 2008..... | 0.000730 |
| December 15, 2008..... | 0.000735 |
| December 16, 2008..... | 0.000742 |
| December 17, 2008..... | 0.000755 |
| December 18, 2008..... | 0.000778 |
| December 19, 2008..... | 0.000776 |
| December 20, 2008..... | 0.000776 |
| December 21, 2008..... | 0.000776 |
| December 22, 2008..... | 0.000765 |
| December 23, 2008..... | 0.000751 |
| December 24, 2008..... | 0.000767 |
| December 25, 2008..... | 0.000767 |
| December 26, 2008..... | 0.000770 |
| December 27, 2008..... | 0.000770 |
| December 28, 2008..... | 0.000770 |
| December 29, 2008..... | 0.000792 |
| December 30, 2008..... | 0.000795 |
| December 31, 2008..... | 0.000792 |

Taiwan N.T. dollar:

| | |
|-----------------------|----------|
| December 1, 2008..... | 0.030003 |
| December 2, 2008..... | 0.029931 |
| December 3, 2008..... | 0.029833 |
| December 4, 2008..... | 0.029833 |
| December 5, 2008..... | 0.029806 |

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for December, 2008 (continued):

Taiwan N.T. dollar: (continued):

| | |
|------------------------|----------|
| December 6, 2008..... | 0.029806 |
| December 7, 2008..... | 0.029806 |
| December 8, 2008..... | 0.029878 |
| December 9, 2008..... | 0.029869 |
| December 10, 2008..... | 0.029895 |
| December 11, 2008..... | 0.030066 |
| December 12, 2008..... | 0.030066 |
| December 13, 2008..... | 0.030066 |
| December 14, 2008..... | 0.030066 |
| December 15, 2008..... | 0.030130 |
| December 16, 2008..... | 0.030285 |
| December 17, 2008..... | 0.030694 |
| December 18, 2008..... | 0.030817 |
| December 19, 2008..... | 0.030817 |
| December 20, 2008..... | 0.030817 |
| December 21, 2008..... | 0.030817 |
| December 22, 2008..... | 0.030358 |
| December 23, 2008..... | 0.030294 |
| December 24, 2008..... | 0.030276 |
| December 25, 2008..... | 0.030276 |
| December 26, 2008..... | 0.030312 |
| December 27, 2008..... | 0.030312 |
| December 28, 2008..... | 0.030312 |
| December 29, 2008..... | 0.030312 |
| December 30, 2008..... | 0.030525 |
| December 31, 2008..... | 0.030525 |

Dated: January 2, 2009

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



(CBP Dec. 09-13)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR DECEMBER, 2008

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 09-11 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.

FOREIGN CURRENCIES—Variances from quarterly rates for
December, 2008 (continued):

Holiday(s): December 25, 2008

Australia dollar:

| | |
|-------------------------|----------|
| December 1, 2008 | 0.644700 |
| December 2, 2008 | 0.644300 |
| December 3, 2008 | 0.648200 |
| December 4, 2008 | 0.652700 |
| December 5, 2008 | 0.634300 |
| December 6, 2008 | 0.634300 |
| December 7, 2008 | 0.634300 |
| December 8, 2008 | 0.664400 |
| December 9, 2008 | 0.660000 |
| December 10, 2008 | 0.661500 |
| December 11, 2008 | 0.677900 |
| December 12, 2008 | 0.658000 |
| December 13, 2008 | 0.658000 |
| December 14, 2008 | 0.658000 |
| December 15, 2008 | 0.671300 |
| December 16, 2008 | 0.677500 |
| December 17, 2008 | 0.696700 |
| December 18, 2008 | 0.698500 |
| December 19, 2008 | 0.680600 |
| December 20, 2008 | 0.680600 |
| December 21, 2008 | 0.680600 |
| December 22, 2008 | 0.683200 |
| December 23, 2008 | 0.680400 |
| December 24, 2008 | 0.682600 |
| December 25, 2008 | 0.682600 |
| December 26, 2008 | 0.681400 |
| December 27, 2008 | 0.681400 |
| December 28, 2008 | 0.681400 |
| December 29, 2008 | 0.695000 |
| December 30, 2008 | 0.690600 |
| December 31, 2008 | 0.698300 |

Brazil real:

| | |
|-------------------------|----------|
| December 1, 2008 | 0.423280 |
| December 2, 2008 | 0.420521 |
| December 3, 2008 | 0.417449 |
| December 4, 2008 | 0.403388 |
| December 5, 2008 | 0.381869 |
| December 6, 2008 | 0.381869 |
| December 7, 2008 | 0.381869 |
| December 8, 2008 | 0.406091 |
| December 9, 2008 | 0.402658 |
| December 10, 2008 | 0.411015 |
| December 11, 2008 | 0.436586 |
| December 12, 2008 | 0.416840 |
| December 13, 2008 | 0.416840 |
| December 14, 2008 | 0.416840 |
| December 15, 2008 | 0.423998 |
| December 16, 2008 | 0.422476 |
| December 17, 2008 | 0.422119 |

FOREIGN CURRENCIES—Variances from quarterly rates for
December, 2008 (continued):

Brazil real: (continued):

| | |
|------------------------|----------|
| December 18, 2008..... | 0.424448 |
| December 19, 2008..... | 0.420433 |
| December 20, 2008..... | 0.420433 |
| December 21, 2008..... | 0.420433 |
| December 22, 2008..... | 0.415800 |
| December 23, 2008..... | 0.421017 |
| December 24, 2008..... | 0.421053 |
| December 25, 2008..... | 0.421053 |
| December 26, 2008..... | 0.421461 |
| December 27, 2008..... | 0.421461 |
| December 28, 2008..... | 0.421461 |
| December 29, 2008..... | 0.417101 |
| December 30, 2008..... | 0.429350 |
| December 31, 2008..... | 0.432339 |

Canada dollar:

| | |
|------------------------|----------|
| December 1, 2008..... | 0.808407 |
| December 2, 2008..... | 0.805023 |
| December 3, 2008..... | 0.795355 |
| December 4, 2008..... | 0.797448 |
| December 5, 2008..... | 0.770951 |
| December 6, 2008..... | 0.770951 |
| December 7, 2008..... | 0.770951 |
| December 8, 2008..... | 0.795545 |
| December 9, 2008..... | 0.793525 |
| December 10, 2008..... | 0.796622 |
| December 11, 2008..... | 0.820951 |
| December 12, 2008..... | 0.803019 |
| December 13, 2008..... | 0.803019 |
| December 14, 2008..... | 0.803019 |
| December 15, 2008..... | 0.809717 |
| December 16, 2008..... | 0.817127 |
| December 17, 2008..... | 0.829325 |
| December 18, 2008..... | 0.835981 |
| December 19, 2008..... | 0.814797 |
| December 20, 2008..... | 0.814797 |
| December 21, 2008..... | 0.814797 |
| December 22, 2008..... | 0.820479 |
| December 23, 2008..... | 0.822368 |
| December 24, 2008..... | 0.824742 |
| December 25, 2008..... | 0.824742 |
| December 26, 2008..... | 0.819202 |
| December 27, 2008..... | 0.819202 |
| December 28, 2008..... | 0.819202 |
| December 29, 2008..... | 0.822233 |
| December 30, 2008..... | 0.818666 |
| December 31, 2008..... | 0.816993 |

Denmark krone:

| | |
|-----------------------|----------|
| December 1, 2008..... | 0.169621 |
| December 2, 2008..... | 0.170867 |

FOREIGN CURRENCIES—Variances from quarterly rates for
December, 2008 (continued):

Denmark krone: (continued):

| | |
|-----------------------------|----------|
| December 3, 2008 | 0.170082 |
| December 4, 2008 | 0.172411 |
| December 5, 2008 | 0.169794 |
| December 6, 2008 | 0.169794 |
| December 7, 2008 | 0.169794 |
| December 8, 2008 | 0.173765 |
| December 9, 2008 | 0.173768 |
| December 10, 2008 | 0.174914 |
| December 11, 2008 | 0.178568 |
| December 12, 2008 | 0.179215 |
| December 13, 2008 | 0.179215 |
| December 14, 2008 | 0.179215 |

India rupee:

| | |
|----------------------------|----------|
| December 1, 2008 | 0.020024 |
| December 2, 2008 | 0.019980 |
| December 3, 2008 | 0.020032 |
| December 4, 2008 | 0.020072 |
| December 5, 2008 | 0.020161 |
| December 6, 2008 | 0.020161 |
| December 7, 2008 | 0.020161 |
| December 8, 2008 | 0.020227 |
| December 9, 2008 | 0.020292 |

Japan yen:

| | |
|-----------------------------|----------|
| December 1, 2008 | 0.010671 |
| December 2, 2008 | 0.010679 |
| December 3, 2008 | 0.010724 |
| December 4, 2008 | 0.010778 |
| December 5, 2008 | 0.010848 |
| December 6, 2008 | 0.010848 |
| December 7, 2008 | 0.010848 |
| December 8, 2008 | 0.010779 |
| December 9, 2008 | 0.010818 |
| December 10, 2008 | 0.010760 |
| December 11, 2008 | 0.010874 |
| December 12, 2008 | 0.010958 |
| December 13, 2008 | 0.010958 |
| December 14, 2008 | 0.010958 |
| December 15, 2008 | 0.011028 |
| December 16, 2008 | 0.011114 |
| December 17, 2008 | 0.011384 |
| December 18, 2008 | 0.011135 |
| December 19, 2008 | 0.011176 |
| December 20, 2008 | 0.011176 |
| December 21, 2008 | 0.011176 |
| December 22, 2008 | 0.011102 |
| December 23, 2008 | 0.011041 |
| December 24, 2008 | 0.011028 |
| December 25, 2008 | 0.011028 |
| December 26, 2008 | 0.011031 |
| December 27, 2008 | 0.011031 |

FOREIGN CURRENCIES—Variances from quarterly rates for
December, 2008 (continued):

Japan yen: (continued):

| | |
|------------------------|----------|
| December 28, 2008..... | 0.011031 |
| December 29, 2008..... | 0.011086 |
| December 30, 2008..... | 0.011066 |
| December 31, 2008..... | 0.011014 |

Malaysia ringgit:

| | |
|-----------------------|----------|
| December 1, 2008..... | 0.275710 |
| December 2, 2008..... | 0.274952 |
| December 3, 2008..... | 0.274876 |
| December 4, 2008..... | 0.274876 |
| December 5, 2008..... | 0.275141 |
| December 6, 2008..... | 0.275141 |
| December 7, 2008..... | 0.275141 |
| December 8, 2008..... | 0.275103 |

Mexico peso:

| | |
|------------------------|----------|
| December 1, 2008..... | 0.073692 |
| December 2, 2008..... | 0.074267 |
| December 3, 2008..... | 0.073801 |
| December 4, 2008..... | 0.074019 |
| December 5, 2008..... | 0.072463 |
| December 6, 2008..... | 0.072463 |
| December 7, 2008..... | 0.072463 |
| December 8, 2008..... | 0.074267 |
| December 9, 2008..... | 0.074041 |
| December 10, 2008..... | 0.074256 |
| December 11, 2008..... | 0.076388 |
| December 12, 2008..... | 0.073910 |
| December 13, 2008..... | 0.073910 |
| December 14, 2008..... | 0.073910 |
| December 15, 2008..... | 0.075157 |
| December 16, 2008..... | 0.075626 |
| December 17, 2008..... | 0.075930 |
| December 18, 2008..... | 0.075821 |
| December 19, 2008..... | 0.076202 |
| December 20, 2008..... | 0.076202 |
| December 21, 2008..... | 0.076202 |
| December 22, 2008..... | 0.075855 |
| December 23, 2008..... | 0.075637 |
| December 24, 2008..... | 0.075019 |
| December 25, 2008..... | 0.075019 |
| December 26, 2008..... | 0.074822 |
| December 27, 2008..... | 0.074822 |
| December 28, 2008..... | 0.074822 |
| December 29, 2008..... | 0.073948 |
| December 30, 2008..... | 0.072674 |
| December 31, 2008..... | 0.072296 |

New Zealand dollar:

| | |
|-----------------------|----------|
| December 1, 2008..... | 0.535500 |
| December 2, 2008..... | 0.531900 |
| December 3, 2008..... | 0.533600 |
| December 4, 2008..... | 0.538200 |

FOREIGN CURRENCIES—Variances from quarterly rates for
December, 2008 (continued):

New Zealand dollar: (continued):

| | |
|------------------------|----------|
| December 5, 2008..... | 0.524800 |
| December 6, 2008..... | 0.524800 |
| December 7, 2008..... | 0.524800 |
| December 8, 2008..... | 0.544900 |
| December 9, 2008..... | 0.543400 |
| December 10, 2008..... | 0.547700 |
| December 11, 2008..... | 0.555700 |
| December 12, 2008..... | 0.544800 |
| December 13, 2008..... | 0.544800 |
| December 14, 2008..... | 0.544800 |
| December 15, 2008..... | 0.555600 |
| December 16, 2008..... | 0.565200 |
| December 17, 2008..... | 0.589200 |
| December 18, 2008..... | 0.593600 |
| December 19, 2008..... | 0.575800 |
| December 20, 2008..... | 0.575800 |
| December 21, 2008..... | 0.575800 |
| December 22, 2008..... | 0.574200 |
| December 23, 2008..... | 0.566900 |
| December 24, 2008..... | 0.574500 |
| December 25, 2008..... | 0.574500 |
| December 26, 2008..... | 0.576000 |
| December 27, 2008..... | 0.576000 |
| December 28, 2008..... | 0.576000 |
| December 29, 2008..... | 0.582300 |
| December 30, 2008..... | 0.577000 |
| December 31, 2008..... | 0.581500 |

Norway krone:

| | |
|------------------------|----------|
| December 1, 2008..... | 0.141133 |
| December 2, 2008..... | 0.142468 |
| December 3, 2008..... | 0.140968 |
| December 4, 2008..... | 0.141359 |
| December 5, 2008..... | 0.137272 |
| December 6, 2008..... | 0.137272 |
| December 7, 2008..... | 0.137272 |
| December 8, 2008..... | 0.141808 |
| December 9, 2008..... | 0.141613 |
| December 10, 2008..... | 0.142596 |
| December 11, 2008..... | 0.145060 |
| December 12, 2008..... | 0.144394 |
| December 13, 2008..... | 0.144394 |
| December 14, 2008..... | 0.144394 |
| December 15, 2008..... | 0.145129 |
| December 16, 2008..... | 0.143334 |
| December 17, 2008..... | 0.151021 |
| December 18, 2008..... | 0.147393 |
| December 19, 2008..... | 0.141163 |
| December 20, 2008..... | 0.141163 |
| December 21, 2008..... | 0.141163 |

FOREIGN CURRENCIES—Variances from quarterly rates for
December, 2008 (continued):

Norway krone: (continued):

| | |
|------------------------|----------|
| December 22, 2008..... | 0.140972 |
| December 23, 2008..... | 0.140513 |
| December 24, 2008..... | 0.139835 |
| December 25, 2008..... | 0.139835 |
| December 26, 2008..... | 0.139982 |
| December 27, 2008..... | 0.139982 |
| December 28, 2008..... | 0.139982 |
| December 29, 2008..... | 0.142761 |
| December 30, 2008..... | 0.142796 |
| December 31, 2008..... | 0.143357 |

Republic of South Africa rand:

| | |
|------------------------|----------|
| December 1, 2008..... | 0.097324 |
| December 2, 2008..... | 0.096358 |
| December 3, 2008..... | 0.098522 |
| December 4, 2008..... | 0.098107 |
| December 5, 2008..... | 0.095470 |
| December 6, 2008..... | 0.095470 |
| December 7, 2008..... | 0.095470 |
| December 8, 2008..... | 0.099701 |
| December 9, 2008..... | 0.098814 |
| December 10, 2008..... | 0.098619 |
| December 11, 2008..... | 0.100781 |
| December 12, 2008..... | 0.097895 |
| December 13, 2008..... | 0.097895 |
| December 14, 2008..... | 0.097895 |
| December 15, 2008..... | 0.098907 |
| December 16, 2008..... | 0.097532 |
| December 17, 2008..... | 0.101626 |
| December 18, 2008..... | 0.105037 |
| December 19, 2008..... | 0.102738 |
| December 20, 2008..... | 0.102738 |
| December 21, 2008..... | 0.102738 |
| December 22, 2008..... | 0.102564 |
| December 23, 2008..... | 0.103752 |
| December 24, 2008..... | 0.102722 |
| December 25, 2008..... | 0.102722 |
| December 26, 2008..... | 0.102987 |
| December 27, 2008..... | 0.102987 |
| December 28, 2008..... | 0.102987 |
| December 29, 2008..... | 0.105708 |
| December 30, 2008..... | 0.106952 |
| December 31, 2008..... | 0.107527 |

Singapore dollar:

| | |
|-----------------------|----------|
| December 1, 2008..... | 0.653168 |
| December 2, 2008..... | 0.654065 |
| December 3, 2008..... | 0.654664 |
| December 4, 2008..... | 0.656685 |
| December 5, 2008..... | 0.656168 |

FOREIGN CURRENCIES—Variances from quarterly rates for
December, 2008 (continued):

Singapore dollar: (continued):

| | |
|-----------------------|----------|
| December 6, 2008..... | 0.656168 |
| December 7, 2008..... | 0.656168 |

Sri Lanka rupee:

| | |
|------------------------|----------|
| December 29, 2008..... | 0.008801 |
|------------------------|----------|

Sweden krona:

| | |
|------------------------|----------|
| December 1, 2008..... | 0.120723 |
| December 2, 2008..... | 0.122608 |
| December 3, 2008..... | 0.122033 |
| December 4, 2008..... | 0.122027 |
| December 5, 2008..... | 0.117844 |
| December 6, 2008..... | 0.117844 |
| December 7, 2008..... | 0.117844 |
| December 8, 2008..... | 0.124221 |
| December 9, 2008..... | 0.122551 |
| December 10, 2008..... | 0.123382 |
| December 11, 2008..... | 0.125593 |
| December 12, 2008..... | 0.123796 |
| December 13, 2008..... | 0.123796 |
| December 14, 2008..... | 0.123796 |
| December 15, 2008..... | 0.124530 |
| December 16, 2008..... | 0.123559 |
| December 17, 2008..... | 0.130286 |
| December 18, 2008..... | 0.130208 |
| December 19, 2008..... | 0.127445 |
| December 20, 2008..... | 0.127445 |
| December 21, 2008..... | 0.127445 |
| December 22, 2008..... | 0.127207 |
| December 23, 2008..... | 0.125414 |
| December 24, 2008..... | 0.124445 |
| December 25, 2008..... | 0.124445 |
| December 26, 2008..... | 0.124888 |
| December 27, 2008..... | 0.124888 |
| December 28, 2008..... | 0.124888 |
| December 29, 2008..... | 0.129276 |
| December 30, 2008..... | 0.128411 |
| December 31, 2008..... | 0.126952 |

Switzerland franc:

| | |
|------------------------|----------|
| December 1, 2008..... | 0.828089 |
| December 2, 2008..... | 0.829050 |
| December 3, 2008..... | 0.823588 |
| December 4, 2008..... | 0.835352 |
| December 5, 2008..... | 0.817127 |
| December 6, 2008..... | 0.817127 |
| December 7, 2008..... | 0.817127 |
| December 8, 2008..... | 0.830841 |
| December 9, 2008..... | 0.829050 |
| December 10, 2008..... | 0.836890 |

FOREIGN CURRENCIES—Variances from quarterly rates for
December, 2008 (continued):

Switzerland franc: (continued):

| | |
|------------------------|----------|
| December 11, 2008..... | 0.842318 |
| December 12, 2008..... | 0.847745 |
| December 13, 2008..... | 0.847745 |
| December 14, 2008..... | 0.847745 |
| December 29, 2008..... | 0.960246 |
| December 30, 2008..... | 0.946342 |

Thailand baht:

| | |
|-----------------------|----------|
| December 1, 2008..... | 0.028003 |
| December 5, 2008..... | 0.027996 |
| December 6, 2008..... | 0.027996 |
| December 7, 2008..... | 0.027996 |

United Kingdom pound sterling:

| | |
|------------------------|----------|
| December 1, 2008..... | 1.484000 |
| December 2, 2008..... | 1.494900 |
| December 3, 2008..... | 1.478300 |
| December 4, 2008..... | 1.479100 |
| December 5, 2008..... | 1.460600 |
| December 6, 2008..... | 1.460600 |
| December 7, 2008..... | 1.460600 |
| December 8, 2008..... | 1.483100 |
| December 9, 2008..... | 1.477600 |
| December 10, 2008..... | 1.483000 |
| December 11, 2008..... | 1.495300 |
| December 12, 2008..... | 1.487400 |
| December 13, 2008..... | 1.487400 |
| December 14, 2008..... | 1.487400 |
| December 15, 2008..... | 1.527800 |
| December 16, 2008..... | 1.532000 |
| December 17, 2008..... | 1.545700 |
| December 18, 2008..... | 1.510300 |
| December 19, 2008..... | 1.485400 |
| December 20, 2008..... | 1.485400 |
| December 21, 2008..... | 1.485400 |
| December 22, 2008..... | 1.480500 |
| December 23, 2008..... | 1.476100 |
| December 24, 2008..... | 1.467300 |
| December 25, 2008..... | 1.467300 |
| December 26, 2008..... | 1.470000 |
| December 27, 2008..... | 1.470000 |
| December 28, 2008..... | 1.470000 |
| December 29, 2008..... | 1.459100 |
| December 30, 2008..... | 1.439500 |
| December 31, 2008..... | 1.461900 |

Dated: January 1, 2009

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

10/01/08

LIQ-03-01-RR:OO:CI

RE: SECTION 159.34 CFR

SUBJECT: CERTIFIED RATES OF FOREIGN EXCHANGE:
FOURTH QUARTER, 2008

LISTED BELOW ARE THE BUYING RATES CERTIFIED FOR THE QUARTER TO THE SECRETARY OF THE TREASURY BY THE FEDERAL RESERVE BANK OF NEW YORK UNDER PROVISION OF 31 USC 5151. THESE QUARTERLY RATES ARE APPLICABLE THROUGHOUT THE QUARTER EXCEPT WHEN THE CERTIFIED DAILY RATES VARY BY 5% OR MORE. SUCH VARIANCES MAY BE OBTAINED BY CALLING (646) 733-3065 OR (646) 733-3057.

QUARTER BEGINNING OCTOBER 1, 2008 AND ENDING
DECEMBER 30, 2008

| COUNTRY | CURRENCY | U.S. DOLLARS |
|----------------------|----------------------|--------------|
| AUSTRALIA | DOLLAR | \$0.793700 |
| BRAZIL | REAL | \$0.516796 |
| CANADA | DOLLAR | \$0.942774 |
| CHINA, P.R. | YUAN | \$0.146017 |
| DENMARK | KRONE | \$0.188452 |
| HONG KONG | DOLLAR | \$0.128751 |
| INDIA | RUPEE | \$0.021519 |
| JAPAN | YEN | \$0.009429 |
| MALAYSIA | RINGGIT | \$0.290453 |
| MEXICO | PESO | \$0.091154 |
| NEW ZEALAND | DOLLAR | \$0.678500 |
| NORWAY | KRONE | \$0.169973 |
| SINGAPORE | DOLLAR | \$0.696088 |
| SOUTH AFRICA | RAND | \$0.120934 |
| SRI LANKA | RUPEE | \$0.009246 |
| SWEDEN | KRONA | \$0.144703 |
| SWITZERLAND | FRANC | \$0.892140 |
| THAILAND | BAHT | \$0.029429 |
| UNITED KINGDOM | POUND STERLING | \$1.780400 |
| VENEZUELA | BOLIVAR | \$0.466287 |

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

General Notices

AGENCY INFORMATION COLLECTION ACTIVITIES:

User Fees

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

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651-0052.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning User Fees. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before May 26, 2009, to be assured of consideration.

ADDRESS: Direct all written comments to the U.S. Customs and Border Protection, Attn: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the U.S. Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 344-1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public

record. In this document CBP is soliciting comments concerning the following information collection:

Title: User Fees

OMB Number: 1651-0052

Form Number: CBP Forms 339A, 339C and 339V

Abstract: The information collected on the User Fee Forms 339A, 339C and 339V is necessary in order for CBP to collect the proper amount of fees from private and commercial vessels, private aircraft, operators of commercial trucks, and passenger and freight railroad cars entering the United States. This collection of information also applies to reports filed by user fee express consignment operators.

Current Actions: This submission is being made to extend the expiration date with a change to the burden hours to allow for revisions to Form 339C for commercial vehicles.

Type of Review: Extension (with change)

Affected Public: Businesses or other for-profit institutions

Estimated Number of Respondents: 75,030

Estimated Number of Annual Responses: 75,110

Estimated Time Per Response: 18.5 minutes

Estimated Total Annual Burden Hours: 23,562

Dated: March 18, 2009

TRACEY DENNING,
Agency Clearance Officer,
Customs and Border Protection.

[Published in the Federal Register, March 25, 2009 [(74 FR 12877)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, March 25, 2009

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

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

**REVOCATION OF TWO RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CERTAIN GUN CASE
LINERS**

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

ACTION: Notice of revocation of two tariff classification ruling letters and revocation of treatment relating to the classification of certain gun case liners.

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) is revoking New York Ruling Letter (NY) N015886, dated September 6, 2007 and NY I89555, dated December 31, 2002, which pertain to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of certain gun case liners. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published in the Customs Bulletin, Vol. 43, No. 4, on January 15, 2009. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after June 9, 2009.

FOR FURTHER INFORMATION CONTACT: Greg Connor, Tariff Classification and Marking Branch: (202) 325-0025.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the Customs Bulletin, Vol. 43, No. 4, on January 15, 2009, proposing to revoke NY N015886 and NY I89555, which classified certain gun case liners in heading 4202, HTSUS, which provides for, in pertinent part, “. . . gun cases . . .” No comments were received in response to the notice. As stated in the proposed notice, this revocation will cover any rulings on the subject merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ruling identified above. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. §1625 (c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved with substantially identical transactions should have advised CBP during the comment period. An importer’s failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its

agents for importations of merchandise subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N015886 and NY I89555 to reflect the proper tariff classification of this merchandise under subheading 6307.90.9889, HTSUSA, the provision for "Other made up articles, including dress patterns: Other: Other: Other . . . Other: Other", pursuant to the analysis set forth in Headquarters Ruling Letters H019364 and H047256, which are attached to this document. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by it to substantially identical transactions.

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

DATED: March 13, 2009

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

Attachments

ATTACHMENT A

DEPARTMENT OF HOMELAND SECURITY,
U.S. CUSTOMS AND BORDER PROTECTION,
HQ H019364
March 13, 2009
CLA-2 RR:CTF:TCM H019364 GC
CATEGORY: Classification
TARIFF NO.: 6307.90.9889

MR. BRIAN WAVRA
KOLPIN POWERSPORTS
205 N. Depot St.
Fox Lake, WI 53933

RE: Tariff classification of soft gun-case liners; Reconsideration of NY N015886

DEAR MR. WAVRA:

This is in response to your letter, dated September 17, 2007, in which you request reconsideration of New York Ruling Letter (NY) N015886, dated September 6, 2007, which concerned the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) of a gun case liner. We have since reviewed NY N015886, and find it to be in error. Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY N015886 was published on January 15, 2009, in Volume 43, Number 4, of the CUSTOMS BULLETIN. CBP received no comments in response to the notice.

FACTS:

The liner subject to NY N015886, for which a sample was provided, is identified as style SAM GBL. It is described as a gun case liner constructed with an outer surface of polyester textile material and is shaped to contain a rifle or shotgun. It is in two pieces that, when placed together, measure approximately 50.5 inches long by 10.5 inches wide at its widest point. The two pieces of the liner appear designed to be flush against each other, but there is no mechanism for attaching the two pieces together (i.e. clips, ties, etc.). Hook and loop strips are attached to the ends of both pieces. The loop portion of the hook and loop strip can be attached via an adhesive strip to the inside of another case. The hook portion of the hook and loop strip is sewn into the exterior of the liner. The merchandise is not equipped with a handle or strap. In NY N015886, CBP classified the subject liner under heading 4202, HTSUS, which provides for, in pertinent part, "gun cases". You suggest that the subject merchandise is properly classifiable under heading 6307, HTSUS, as an "other made up article".

ISSUE:

Whether the subject merchandise is classified in heading 4202, HTSUS, as a gun case, or heading 6307, HTSUS, as an other made up textile article?

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration in this case are as follows:

- 4202 Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper:
 - Other:
 - 4202.92 With outer surface of sheeting of plastic or of textile materials:
 - Other:
 - 4202.92.90 Other . . .
 - With outer surface of textile materials:
 - Other:

4202.92.9026 Of man-made fibers

* * *

6307 Other made up articles, including dress patterns:

6307.90 Other:

Other:

6307.90.98 Other . . .

Other:

6307.90.9889 Other

Note 1 to Chapter 63, HTSUS, states that Subchapter 1 of Chapter 63 applies only to made up articles, of any textile fabric.

Note 7 to Section XI, HTSUS (which covers heading 6307, HTSUS), states, in pertinent part:

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

* * *

- (b) Produced in the finished state, ready for use (or merely needing separation by cutting dividing threads) without sewing or other working (for example, certain dusters, towels, tablecloths, scarf squares, blankets);

The Harmonized Commodity Description and Coding System Explanatory Notes (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. CBP believes the ENs should always be consulted. See T.D. 89–90, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

As described in the relevant part of EN 42.02, heading 4202, HTSUS, “covers **only** the articles specifically named therein and similar containers”. (Emphasis in original). With regards to cases similar to those listed *eo nomine* in heading 4202, HTSUS, the following guidance is provided in EN 42.02:

The expression “similar containers” in the first part includes hat boxes, camera accessory cases, cartridge pouches, sheaths for hunting or camping knives, portable tool boxes or cases, specially shaped or internally fitted to contain particular tools with or without their accessories, etc.

With regards to the scope of heading 6307, HTSUS, EN 63.07 states that the heading excludes, among other articles, “travel goods (suit-cases, rucksacks, etc.), shopping-bags, toilet cases, etc., and all similar containers of **heading 4202.**” (Emphasis in original).

Because containers of heading 4202, HTSUS, are excluded from classification in heading 6307, HTSUS, we must first consider whether the instant merchandise falls under heading 4202, HTSUS.

Gun cases are designated *eo nomine* (by name) in heading 4202, HTSUS. However, the instant merchandise is a gun case liner, so the *ejusdem generis* (of the same kind) rule of statutory construction is applied. Under the rule of *ejusdem generis*, where an enumeration of specific things is followed by a general word or phrases, the general word or phrase is held to refer to things of the same kind as those specified. With respect to classification analysis, *ejusdem generis* requires that the imported merchandise possess

the essential characteristics or purposes that unite the articles enumerated *eo nomine* in order to be classified under the general terms. *See Sports Graphics, Inc. v. United States*, 24 F.3d 1390, 1392 (Fed. Cir. 1994).

In *Totes, Inc. v. United States* (herein after *Totes*), the Court of International Trade applied the *ejusdem generis* rule to determine that the “Totes Trunk Organizer”, was of the same kind of merchandise as those listed *eo nomine* in heading 4202, HTSUS, by virtue of the fact that the trunk organizer shared the essential characteristics of the containers listed in the heading text – organizing, storing, protecting, and carrying various items. *See Totes*, 865 F.Supp. 867, 872 (C.I.T. 1994), *aff’d*, 69 F.3d 495 (Fed. Cir. 1995). Heading 4202, HTSUS, as noted in the *Totes* decision, contains an extensive list of cases, all of which are fitted containers designed to organize, store, protect and carry other articles. *See also* Headquarters Ruling Letter (HQ) 963696, dated July 11, 2002 (finding that the “Gun Boot Skin”, a two-piece textile article designed to camouflage a gun case, is classified in heading 6307, HTSUS, because it was not a “gun case” or a “similar container” under heading 4202, HTSUS).

Like the merchandise discussed in HQ 963696, the subject gun case liner is not designed for transportation of the contents, as it is not equipped with a handle or strap for transporting a gun. Unlike the merchandise subject to *Totes*, the gun case liner does not feature compartments or pockets for organizational purposes, nor does it feature any mechanism to seal their two pieces together. The hook and loop strips located on the ends of the pieces are clearly designed to attach the pieces of the liner to the inside of a gun case. A mechanism for sealing the two pieces of the gun liner together would be necessary not just for easy transportation of a gun, but also to seal the liner from dirt or other debris. Consequently, the fact that the subject gun case liner lacks a handle and organizational compartments or pockets, as well as a mechanism to attach both pieces of the liner indicates that it is not designed to organize, store, protect and carry a gun independently of a gun case. As such, it is not considered a “similar container” described by the terms of heading 4202, HTSUS.

The liner is a textile article produced in the finished state, ready for use without sewing or other working. *See* Note 7(b) to Section XI, HTSUS. As such, the subject liner meets the terms of Note 7, and the terms of Note 1 to Chapter 63, HTSUS. Therefore, it is provided for under 6307, HTSUS. *See* HQ 961056, dated February 11, 1998, and HQ 959178, dated June 24, 2006 (where CBP classified golf bag liners according to their constituent material because they were not considered golf bags of heading 4202, HTSUS).

HOLDING:

By application of GRI 1, the subject gun liner, model number SAM GBL, is classified in heading 6307, HTSUS, as a made up textile article, and specifically provided for in subheading 6307.90.9889, HTSUS, which provides for: “Other made up articles, including dress patterns: Other: Other: Other: Other: Other.” The general column one rate of duty, for merchandise classified in these subheadings is 7 percent *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY N015886, dated September 6, 2007, is hereby REVOKED.

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

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

ATTACHMENT B

DEPARTMENT OF HOMELAND SECURITY,
U.S. CUSTOMS AND BORDER PROTECTION,
HQ H047256
March 13, 2009
CLA-2 RR:CTF:TCM H047256 GC
CATEGORY: Classification
TARIFF NO.: 6307.90.9889

RE: Tariff classification of soft gun-case liners; Reconsideration NY I89555

TIM PARSONS
PARSONS TRADING
5 Thunderbird Drive
Novato, California 94949-5883

DEAR MR. PARSONS:

This letter is to inform you that Customs and Border Protection (CBP) has reconsidered New York Ruling Letter (NY) I89555, dated December 31, 2002, which concerns the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) of the "impact liner". We have since reviewed NY I89555 and find it to be in error. Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY I89555 was published on January 15, 2009, in Volume 43, Number 4, of the CUSTOMS BULLETIN. CBP received no comments in response to the notice.

FACTS:

The "impact liner", subject to NY I89555, consists of two sections and is wholly made-up of polyurethane foam covered on both sides with man-made textile materials of either nylon or polyester fibers. It is stated in NY I89555 that a rifle is placed in the liner, which is placed in some version of the "Gun Boot", which is a hard plastic case.

In NY I89555, CBP concluded that the "impact liner" was designed to provide the "same storage, protection, organization and portability for a rifle" as the hard plastic "Gun Boot" cases with which it is used. Consequently, the "impact liner" was found to be classifiable under heading 4202, HTSUS, which provides for, in pertinent part, ". . . gun cases . . ."

We have since learned that when in use, the two sections that make up the "impact liner" are designed to be flush against each other and there is no mechanism for attaching the two pieces together (i.e. clips, ties, etc.). Hook and loop strips are attached to the ends of both pieces. The loop portion of the hook and loop strip are attached via an adhesive strip to the inside of

the “Gun Boot” or some similar hard plastic gun case. The hook portion of the hook and loop strip is sewn into the exterior of the liner. The “impact liner” is not equipped with a handle or strap.

ISSUE:

Whether the subject merchandise is classified in heading 4202, HTSUS, as a gun case, or heading 6307, HTSUS, as an other made up textile article?

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration in this case are as follows:

- 4202 Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper:
 - Other:
 - 4202.92 With outer surface of sheeting of plastic or of textile materials:
 - Other:
 - 4202.92.90 Other . . .
 - With outer surface of textile materials:
 - Other:
 - 4202.92.9026 Of man-made fibers
 - * * *
 - 6307 Other made up articles, including dress patterns:
 - 6307.90 Other:
 - Other:
 - 6307.90.98 Other . . .
 - Other:
 - 6307.90.9889 Other

Note 1 to Chapter 63, HTSUS, states that Subchapter 1 or Chapter 63 (which covers heading 6307, HTSUS) applies only to made up articles, of any textile fabric.

Note 7 to Section XI, HTSUS, states, in pertinent part:

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

- * * *
- (b) Produced in the finished state, ready for use (or merely needing separation by cutting dividing threads) without sewing or other working (for example, certain dusters, towels, tablecloths, scarf squares, blankets);

The Harmonized Commodity Description and Coding System Explanatory Notes (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. CBP believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

As described in the relevant part of EN 42.02, heading 4202, HTSUS, “covers only the articles specifically named therein and similar containers”. (Emphasis in original). With regards to cases similar to those listed *eo nomine* in heading 4202, HTSUS, the following guidance is provided in EN 42.02:

The expression “similar containers” in the first part includes hat boxes, camera accessory cases, cartridge pouches, sheaths for hunting or camping knives, portable tool boxes or cases, specially shaped or internally fitted to contain particular tools with or without their accessories, etc.

With regards to the scope of heading 6307, HTSUS, EN 63.07 states that the heading excludes, among other articles, “travel goods (suit-cases, rucksacks, etc.), shopping-bags, toilet cases, etc., and all similar containers of **heading 4202.**” (Emphasis in original).

Because containers of heading 4202, HTSUS, are excluded from classification in heading 6307, HTSUS, we must first consider whether the instant merchandise falls under heading 4202, HTSUS.

Gun cases are designated *eo nomine* (by name) in heading 4202, HTSUS. However, the instant merchandise is a gun case liner, so the *ejusdem generis* (of the same kind) rule of statutory construction is applied. Under the rule of *ejusdem generis*, where an enumeration of specific things is followed by a general word or phrases, the general word or phrase is held to refer to things of the same kind as those specified. With respect to classification analysis, *ejusdem generis* requires that the imported merchandise possess the essential characteristics or purposes that unite the articles enumerated *eo nomine* in order to be classified under the general terms. See *Sports Graphics, Inc. v. United States*, 24 F.3d 1390, 1392 (Fed. Cir. 1994).

In *Totes, Inc. v. United States* (herein after *Totes*), the Court of International Trade applied the *ejusdem generis* rule to determine that the “Totes Trunk Organizer”, was of the same kind of merchandise as those listed *eo nomine* in heading 4202, HTSUS, by virtue of the fact that the trunk organizer shared the essential characteristics of the containers listed in the heading text – organizing, storing, protecting, and carrying various items. See *Totes*, 865 F.Supp. 867, 872 (C.I.T. 1994), *aff’d*, 69 F.3d 495 (Fed. Cir. 1995). Heading 4202, HTSUS, as noted in the *Totes* decision, contains an extensive list of cases, all of which are fitted containers designed to organize,

store, protect and carry other articles. *See also* Headquarters Ruling Letter (HQ) 963696, dated July 11, 2002 (finding that the “Gun Boot Skin”, a two-piece textile article designed to camouflage a gun case, is classified in heading 6307, HTSUS, because it was not a “gun case” or a “similar container” under heading 4202, HTSUS).

Like the merchandise discussed in HQ 963983, the “impact liner” is not designed for transportation of the contents, as it is not equipped with a handle or strap for transporting a gun. Unlike the merchandise subject to *Totes*, the liner does not feature compartments or pockets for organizational purposes, nor does it feature any mechanism to seal their two pieces together. The hook and loop strips located on the ends of the pieces are clearly designed to attach the pieces of the liner to the inside of a gun case. A mechanism for sealing the two pieces of the gun liner together would be necessary not just for easy transportation of a gun, but also to seal the liner from dirt or other debris. Consequently, the fact that the subject gun case liner lacks a handle, organizational compartments or pockets, as well as a mechanism to attach both pieces of the liner indicates that it is not designed to organize, store, protect and carry a gun independently of a gun case. As such, it is not considered a “similar container” described by the terms of heading 4202, HTSUS.

The liner is a textile article produced in the finished state, ready for use without sewing or other working. *See* Note 7(b) to Section XI, HTSUS. As such, the subject liner meets the terms of Note 7, and also meets the terms of Note 1 to Chapter 63, HTSUS. Therefore, it is provided for under 6307, HTSUS. *See* HQ 961056, dated February 11, 1998, and HQ 959178, dated June 24, 2006 (where CBP classified golf bag liners according to their constituent material because they were not considered golf bags of heading 4202, HTSUS).

HOLDING:

By application of GRI 1, the subject “impact liner” is classified in heading 6307, HTSUS, as a made up textile article, and specifically provided for in subheading 6307.90.9889, HTSUS, which provides for: “Other made up articles, including dress patterns: Other: Other: Other: Other: Other: Other.” The general column one rate of duty, for merchandise classified in these subheadings is 7 percent *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY I89555, dated December 31, 2002, is hereby REVOKED.

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

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

**MODIFICATION OF A RULING LETTER AND REVOCATION
OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF DRIED DILL WEED**

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

ACTION: Notice of modification of a tariff classification ruling letter and revocation of treatment relating to the classification of dill weed in dried form.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking a ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of dill weed in dried form. CBP is also revoking any treatment previously accorded by it to substantially identical transactions.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after June 9, 2009.

FOR FURTHER INFORMATION CONTACT: Isaac D. Levy, Tariff Classification and Marking Branch: (202) 325-0028.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the Customs Bulletin, Vol. 43, No. 7, on February 5, 2009, proposing to revoke one ruling letter pertaining to the tariff classification of dill weed. Although in that notice, CBP specifically proposed to modify New York Ruling Letter (NY) I85579, dated August 30, 2002, the notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the notice period.

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

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying NY I85579, and revoking any other ruling not specifically identified to reflect the proper classification of the subject merchandise according to the analysis contained in Headquarters Ruling Letter (HQ) H008157, set forth as an attachment to this document. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

DATED: March 13, 2009

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

Attachment



DEPARTMENT OF HOMELAND SECURITY.
U.S. CUSTOMS AND BORDER PROTECTION,
HQ H008157
March 13, 2009
CLA-2 OT:RR:CTF:TCM H008157 IDL
CATEGORY: Classification
TARIFF NO.: 0712.90.85

MR. BEHROUSH SHARIFI
TRADERS LINK GROUP LIMITED
69 Heritage Hills, Unit D
Somers, New York 10589

Re: Chopped and Dried Dill Weed; Modification of NY I85579

DEAR MR. SHARIFI:

This letter concerns New York Ruling Letter (NY) I85579, dated August 30, 2002, issued to your company, Traders Link Group, Ltd., by the National Commodity Specialist Division, U.S. Customs Service (now Customs and Border Protection (CBP)). We have reviewed NY I85579 and have found it to be incorrect with respect to the classification of “chopped and dried dill weed” under the Harmonized Tariff Schedule of the United States (HTSUS).

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, 2186 (1993), notice of the proposed modification was published in the Customs Bulletin, Volume 43, No. 7, on February 5, 2009. No comments were received in response to the notice.

FACTS:

In NY I85579, the U.S. Customs Service classified several products, including one described as “dill weed, one hundred percent pure, chopped and dried.” It has now come to the attention of CBP that the product was classified incorrectly under heading 0910, HTSUS. Our analysis on this matter is set forth below.

ISSUE:

Whether the chopped and dried dill weed described above is properly classified under heading 0712, HTSUS, as a dried vegetable or under heading 0910, HTSUS, as a spice?

LAW AND ANALYSIS:

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

In NY I85579, the U.S. Customs Service classified the subject merchandise under heading 0910, HTSUS, as: “Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices.” It is now the position of CBP that the subject merchandise should have been classified under heading 0712, as: “Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared.”

The 2009 HTSUS provisions under consideration are as follows:

0712 Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared:

* * *

0712.90 Other vegetables; mixtures of vegetables:

* * *

0712.90.85 Other vegetables; mixtures of vegetables

* * *

0910 Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices:

* * *

Other spices:

* * *

0910.99 Other:

* * *

Other:

0910.99.50 Dill

Chapter Notes 2 and 3 to chapter 7, HTSUS, provide, in pertinent part, the following:

2. In headings 0709, 0710, 0711 and 0712 the word “vegetables” includes edible mushrooms, truffles, olives, capers, marrows, pumpkins, eggplants (aubergines), sweet corn (*Zea mays* var. *saccharata*), fruits of the genus *Capsicum* (peppers) or of the genus *Pimenta* (e.g., allspice), fennel, parsley, chervil, tarragon, cress and sweet marjoram (*Marjorana hortensis* or *Origanum marjorana*).

3. Heading 0712 covers all dried vegetables of the kinds falling in headings 0701 to 0711, other than:

- (a) Dried leguminous vegetables, shelled (heading 0713);
- (b) Sweet corn in the forms specified in headings 1102 to 1104;
- (c) Flour, meal, powder, flakes, granules and pellets of potatoes (heading 1105);
- (d) Flour, meal and powder of the dried leguminous vegetables of heading 0713 (heading 1106).

Heading 0712, HTSUS, provides for “dried vegetables”. Note 2 to Chapter 7, HTSUS, which does not specifically list “dill”, covers a wide variety of vegetables, including “fennel”, “parsley” and “chervil”, that fall within the scope of heading 0712, HTSUS.

“Dill weed”, also known by its Latin name, *Anethum graveolens*, is a branched, aromatic annual herb, scientifically classified in the same “Apiaceae” family as fennel, parsley, and chervil. Dill, R. Gupta, Handbook of Herbs and Spices, 173 (K.V. Peter ed., Woodhead Publishing Ltd., 2001). The leaf and stem portion of the plant can be distinguished from the seed (fruit of the plant) in color, shape, texture, chemical composition, taste, etc.

Dill weed has a delicate flavor in comparison to the seed, which has a stronger flavor due to higher levels of carvone, a volatile oil. Donna R. Tainter & Anthony T. Grenis, *Spices and Seasonings: A Food Technology Handbook*, 86–87 (2001).

In issuing a decision in NY I85579, the U.S. Customs Service classified the subject merchandise under heading 0910, HTSUS, which provides, in pertinent part, for “other spices”, apparently due to the perception of the existence of an “*eo nomine*” provision for “dill” under subheading 0910.99.50, HTSUS. However, it is now the position of CBP that the component of “dill” falling within the provisions of heading 0910, HTSUS, pertains to the seed, rather than “dill weed.” Inasmuch as “fresh dill weed” is closely related to the examples cited in Note 2, above, of vegetables falling within the scope of heading 0709, HTSUS, it is classified under heading 0709, HTSUS. Therefore, under Note 3 to chapter 7, the dried form of such vegetables is classified under heading 0712. Hence, by the terms of heading 0712, HTSUS, and the chapter notes cited, the subject “chopped and dried dill weed” is classified there.

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

EN 07.09 provides the following:

The vegetables of this heading include:

* * *

(13) Parsley, chervil, tarragon, cress (e.g., watercress), savory (*Satureia hortensis*), coriander, dill, sweet marjoram (*Majorana hortensis* or *Origanum majorana*). [Emphasis added].

EN 07.12 provides the following:

This heading covers vegetables of headings 07.01 to 07.09 which have been dried (including dehydrated, evaporated or freeze-dried) i.e., with their natural water content removed by various processes. . . .

EN 09.10 provides the following:

The heading includes:

* * *

(f) **Dill seed** (*Anethum graveolens*), and **fenugreek seed** (*Trigonella foenum graecum*). [Emphasis added]

The ENs provide examples of “dill weed” and “dill seed” as falling under headings 0712 and 0910, HTSUS. Therefore, the ENs support our position that, for classification purposes, “dill weed” is distinguishable from “dill seed”, and that the subject “chopped and dried dill weed” is classified in heading 0712, HTSUS. Accordingly, the “chopped and dried dill weed” is classified under heading 0712, HTSUS.

HOLDING:

By application of GRI 1, the chopped dill weed described above is classified in heading 0712, HTSUS, and specifically provided for under subheading 0712.90.85, HTSUS, as: “Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared: Other vegetables; mixtures of veg-

etables: Other vegetables; mixtures of vegetables.” The 2009 general, column one rate of duty is 8.3% *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY I85579, dated August 30, 2002, is modified to reflect that the chopped dill weed is correctly classified under subheading 0712.90.85, HTSUS, as discussed above. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after publication in the Customs Bulletin.

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

**PROPOSED MODIFICATION OF TWO RULING LETTERS
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF
CERTAIN PLATE MAKING APPARATUS**

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

ACTION: Notice of proposed modification of two ruling letters and proposed revocation of treatment relating to tariff classification of certain computer-to-plate plate making apparatus identified as the “Platesetter”, “Lotem”, and “Trendsetter”.

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

DATE: Comments must be received on or before May 10, 2009.

ADDRESS: Written comments are to be addressed to Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 799 9th Street, N.W. - 5th Floor, Washington, D.C. 20229–1179. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street N.W., Washington, D.C. 20001 during regular busi-

ness hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Greg Connor, Tariff Classification and Marking Branch: (202) 325-0025.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625 (c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(1)), this notice advises interested parties that CBP proposes to modify two ruling letters pertaining to the tariff classification of certain computer-to-plate plate making apparatus identified as the "Platesetter", "Lotem", and "Trendsetter". Although in this notice, CBP is specifically referring to the modification of New York Ruling Letter (NY) 898413, dated June 20, 1994, and NY R01892, dated May 26, 2005, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the 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 the effective date of the final notice of this proposed action. In NY 898413 and NY R01892, set forth respectively as Attachments A and B to this document, CBP determined that the subject merchandise was classified under heading 8442, HTSUS, and specifically under subheading 8442.30.0150, HTSUS, which provides for, in pertinent part: "[m]achinery, apparatus and equipment . . . for preparing or making plates . . . : Machinery, apparatus and equipment . . . Other machinery, apparatus and equipment".

Pursuant to 19 U.S.C. 1625(c)(1), CBP proposes to modify NY 898413 and NY R01892 and revoke or modify any other ruling not specifically identified, in order to reflect the proper tariff classification of the subject plate making apparatus according to the factual basis and classification analysis contained in proposed Headquarters Ruling Letter H032674, set forth as Attachment C to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

DATED: March 23, 2009

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

Attachments



[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
U.S. CUSTOMS AND BORDER PROTECTION,
NY 898413
June 20, 1994
CLA-2-84:S:N:N1:103 898413
CATEGORY: Classification
TARIFF NO.: 8442.10.0000; 8524.90.4080

MR. DAVID PRITCHARD
CREO PRODUCTS, INC.
3700 Gilmore Way
Burnaby, B.C., Canada V5G 4M1

RE: The tariff classification of the Platesetter from Canada

DEAR MR. PRITCHARD:

In your letter dated April 15, 1994 and received by this office on May 26, 1994 you requested a tariff classification ruling.

The Creo model 3244 Platesetter is a fully automatic computer to plate imaging machine. It is used to "write" digital information which is to be printed directly onto pre-sensitized printing plates. The digital data is loaded into the Platesetter, processed by a computer workstation and raster image processor incorporated in the unit utilizing specialized software, and imaged onto the photo-sensitive receiving plate by multiple laser beams. Subsequently, the imaged plate is fixed in a developer and then mounted onto the cylinder of a printing press. Direct digital imaging onto a printing plate enables large commercial printers to eliminate traditional intermediate platemaking steps involving imaging and imposing photographic film, thus saving both time and money.

The Platesetter model 3244 works with aluminum plates ranging in size from 17 inches by 22 inches to 32 inches by 44 inches. It features automatic plate loading and unloading, even while in operation, and has a maximum storage capacity of 1000 plates held in as many as 10 plate bins. Up to 10 different plate configurations can be on-line at any given time. Resolution varies from 1000 to 3200 dots per inch over a maximum image area of 31 inches by 44 inches. Depending on resolution, the Platesetter can produce an imaged plate in 2-4 minutes.

The applicable subheading for the model 3244 Platesetter will be 8442.10.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for machinery, apparatus and equipment . . . , for type-founding or typesetting, for preparing or making printing blocks, plates, cylinders and other printing components:

phototypesetting and composing machines. The rate of duty will be free.

The applicable heading for any software disks entered with the Platesetter will be 8524.90.4080, HTS, which provides for recorded media, whether or not entered with the Platesetter. The rate of duty is 9.7 cents/m² of recording surface.

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

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE
Area Director New York Seaport.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
U.S. CUSTOMS AND BORDER PROTECTION,
NY R01892
May 26, 2005
CLA-2-84:RR:NC:1:106 R01892
CATEGORY: Classification
TARIFF NO.: 8442.10.0000

MR. STEVE AIELLO
CREO AMERICAS INC.
*3 Federal Street
Billerica, MA 01821*

RE: The tariff classification of computer-to-plate systems from Canada and Israel

DEAR MR. AIELLO:

In your letter dated April 25, 2005 you requested a tariff classification ruling.

The computer-to-plate systems are composed of a platesetter, i.e., (Lotem or Trendsetter) and a workflow system, i.e., computer workstation (Prinergy, Synapse or Brisque). A platesetter is used to "write" digital information directly onto pre-sensitized printing plates. This allows printers to eliminate certain intermediate platemaking steps involving imaging and imposing photographic film, thus saving both time and money. Digital data is loaded into the platesetter, processed by a computer workstation and imaged onto the photo-sensitive receiving plate by multiple laser beams.

In NY ruling 898413 dated June 20, 1994, your firm was advised that the platesetter, imported separately, is classified in 8442.10.0000, Harmonized Tariff Schedule of the United States (HTS). This subheading provides for machinery, apparatus and equipment . . . for type-founding or typesetting, for preparing or making printing blocks, plates, cylinders and other printing components: phototypesetting and composing machines. The Prinergy and Brisque workflow systems, imported separately, were ruled upon in NY ruling R01367 dated February 24, 2005. You were advised at that time that the workflow systems would fall under subheading 8471.49, HTS, which provides for automatic data processing machines and units thereof; other digital automatic data processing machine: other, entered in the form of systems.

At the time of the issuance of the above cited rulings, the workflow systems were integrated with the thermal printing platesetters after importation. However, in this ruling request, the workflow systems will be inte-

grated with the thermal printing platesetters to create a functional unit prior to importation. According to your letter, there will be two new methods of shipping the goods, i.e., (1) the Lotem printsetter and the Brisque workflow system will be integrated at your firm's manufacturing facility in Israel prior to importation into the United States and (2) the Trendsetter printsetter and the Prinergy, Synapse and Brisque workflow systems will be integrated at your firm's Canadian manufacturing facility prior to importation into the United States. This combination of machines is clearly intended to contribute together for a printing platesetting function under Heading 8442.

Section XVI Note 4 states that where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in chapter 84 or chapter 85, then the whole falls to be classified in the heading appropriate to that function.


According to Note 5 (E) to Chapter 84, machines performing a specific function other than data processing and incorporating or working in conjunction with an automatic data processing machine are to be classified in the headings appropriate to their respective functions or, failing that, in residual headings. In this case, Creo's computer-to-plate systems are creating a printing plate, which provides an output function other than data processing. By virtue of this note, Heading 8471 would not apply to the functional units formed by the servers and output devices.

The applicable subheading for a computer-to-plate system will be 8442.10.0000, HTS, which provides for machinery, apparatus and equipment . . . , for type-founding or typesetting, for preparing or making printing blocks, plates, cylinders and other printing components . . . : phototypesetting and composing 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 Patrick Wholey at 646-733-3013.

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



[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY,
U.S. CUSTOMS AND BORDER PROTECTION,

HQ H032672
March 23, 2009

CLA-2 OT:RR:CTF:TCM H032672 GC
CATEGORY: Classification
TARIFF NO.: 8442.30.0150

ROLAND SHRULL, ESQ.
50 Burlington Mall Road, Suite 205
Burlington, Massachusetts 01803-4536

RE: Modification of NY 898413 and NY R01892; tariff classification of plate-making machines

DEAR MR. SHRULL:

This letter pertains to your request, following our meeting of July 7, 2008, that Customs and Border Protection (CBP) reconsider New York Ruling Letter (NY) 898413, dated June 20, 1994, and NY R01892, dated May 26, 2005. The two rulings concerned the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) of the Platesetter (NY 898413) and the Lotem or Trendsetter (NY R01892), all of which are used in computer-to-plate (CTP) systems to create printing plates used in offset printing. Also consulted in the preparation of this ruling were your electronic submissions of December 2, 2008, December 20, 2008, January 9, 2009, and February 20, 2009. We have since reviewed NY 898413 and NY R01892, and find them to be factually incorrect. For the reasons set out below, we are modifying these two rulings.

The company to which NY 898413 and NY R01892 were issued, Creo Products, Inc., was subsequently acquired by Eastman Kodak Company (Kodak). Accordingly, pursuant to your correspondence on January 14, 2009, we are addressing the modification of these rulings to you in your capacity as counsel for Kodak.

FACTS:

The Platesetter (model 3244) was described in NY 898413 as a fully automatic CTP imaging machine. It is used to "write" digital information which is to be printed directly onto pre-sensitized printing plates. The plates created by the Platesetter are fixed in a developer and then mounted onto the cylinder of a printing press. Direct digital image onto a printing plate enables large commercial printers to eliminate traditional plate-making steps involving imaging and imposing photographic film, thus saving both time and money.

Particularly relevant in this case, it was noted in NY 898413 that the plates are created by loading digital data into the Platesetter, processing the data with computer workstation and raster image processor incorporated in the unit utilizing specialized software, and using multiple laser beams to create the corresponding image onto photo-sensitive receiving plates.

In NY R01892, CBP referenced NY 898413 in the description of the Lotem or Trendsetter products, which were incorporated into the CTP systems subject to the ruling. In so doing, we described the plate making process as involving the transfer of digital data onto photo-sensitive receiving plates by multiple laser beams.

Since the submission of NY R01892 and NY 898413, new facts have come to our attention regarding the operation of the subject CTP products. According to your submissions, the lasers incorporated within the CTP products from NY R01892 and NY 898413 do not transfer digital data by emitting light onto photosensitive media. Rather, through an infrared (IR) laser beam, they transfer the data directly onto heat-sensitive aluminum plates.

Through your correspondence on this issue, you have clarified that two types of aluminum plates, generally described as physical thermal plates and chemical thermal plates, are used with the subject CTP products. You state that the physical thermal printing plates are coated with thermoplastic pearls, which fuse together and bond to the aluminum plate to produce the desired image when they react to an IR laser beam of a specified threshold temperature. The thermoplastic pearls that do not come into contact with the laser, are washed away in a solution.

The chemical thermal printing plates are coated with a phenolic resin that contains certain polymers as well as dyes, which serve to absorb the IR laser beam. When the IR beam of a specified threshold temperature makes contact with the resin coating, acid in the coating reacts with the polymers, causing them to bond and adhere to the aluminum plate, thus creating the desired image. The unaffected coating is then washed off of the plate using an alkaline developer solution comprised of silicates and hydroxides.

As a result, the composition of the coatings on the plates used with the subject equipment is such that the image is formed directly on the plate when a threshold temperature is reached. The heat-based operation eliminates the risk of over-exposure or under-exposure that can be associated with plate making machines using lasers to deliver a source of light. Likewise, the Platesetter, Lotem, and Trendsetter products can be utilized anywhere in the printing plant, as there is no need for darkrooms or safety lights, which is the case for other light-based, computer-to-film plate making systems.

ISSUE:

Whether the subject merchandise is classified under heading 8442, HTSUS, as apparatus for preparing or making plates, or under heading 9006, HTSUS, as photographic cameras?

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration in this case are as follows:

- 8442 Machinery, apparatus and equipment (other than the machine tools of headings 8456 to 8465), for preparing or making plates, cylinders or other printing components; plates, cylinders and other printing components; plates, cylinders and lithographic stones, prepared for printing purposes (for example, planed, grained or polished); parts thereof:

 - 8442.30.01 Machinery, apparatus and equipment . . .
 - 8442.30.0150 Other machinery, apparatus and equipment
 - * * *

- 9006 Photographic (other than cinematographic) cameras; photographic flashlight apparatus and flashbulbs other than discharge lamps of heading 8539; parts and accessories thereof:

 - 9006.10.0000 Cameras of a kind used for preparing printing plates or cylinders . . .

Note 1(m) to Section XVI, HTSUS, excludes “[a]rticles of Chapter 90” from classification in Section XVI. Accordingly, before considering heading 8442, HTSUS, which covers apparatus for preparing or making plates, cylinders or other printing components, we must first analyze whether the subject merchandise fits the terms of heading 9006, HTSUS, which provides for photographic cameras.

The term “photographic” is not defined in the HTSUS. In the absence of contrary legislative intent, tariff terms are to be construed in accordance with their common and commercial meanings which are presumed to be the same. Various dictionaries agree that the term photography means “[t]he art or process of producing images on sensitized surfaces by the action of light or more generally, of any form of radiant energy.” See Headquarters Ruling Letter 958054, dated September 26, 1995; see also *St. Regis Paper Co., v. United States*, 11 CIT 601 (1987) (where the Court of International Trade adopted the same broad definition within the context of the Tariff Schedule of the United States).

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

In its description of the scope of heading 9006, HTSUS, and the scope of the term “photographic camera”, EN 90.06 (I) states the following, in pertinent part:

There are many different types of cameras, but the conventional types consist essentially of a light-tight chamber, a lens, a shutter, a diaphragm, a holder for a photographic plate or film, and a viewfinder. Variations in these essential features characterize the different kinds of cameras . . .

* * *

The cameras of this group include:

- (17) Cameras used for composing or preparing printing plates or cylinders by photographic means. This apparatus may be of considerable size and may differ considerably from other types of photographic cameras mentioned above. This group includes:

* * *

- (iv) Laser photoplotter for creating latent images on photosensitive film, generally from digital formats, (e.g., colour transparencies, which are used to reproduce digital artwork with continuous-tone) by means of a laser beam. To reproduce an image, the primary colours (cyan, magenta and yellow) are first selected, whereupon each colour is separately turned into rasterized data by an automatic data image processor. The raster image processor may be incorporated into the photoplotter.*

One of the methods of using lasers to create printing plates involves the exposure of sheets of either photographic film or bromide paper to a light source. The laser emits a beam of ultraviolet (UV) light onto the film to create the desired image through variation of the intensity of the light as well as the duration of exposure. Once the film is developed, the high quality black and white image is then used to expose lithography plates used in offset printing. Indeed, this method of plate making adheres to that described in EN 90.06 (I)(17)(iv), as well as EN 84.42(A).

However, the subject CTP products complete the plate making process using a different method from that described in EN 90.06 (I)(17)(iv). As described in the "Facts" section above, the lasers incorporated within the subject CTP products do not transfer digital data by emitting light onto photosensitive film for subsequent imaging onto plates. Rather, the lasers from the Platesetter, Lotem, and Trendsetter products transfer the data directly onto the heat-sensitive aluminum plates using an IR laser beam. As a result, the composition of the coatings on the plates used with the subject equipment is such that the image is formed directly on the plate when a threshold temperature is reached.

This description of the plate making process utilized by the Platesetter, Lotem, and Trendsetter machines is in fact partially consistent with rulings at issue here. In NY R01892, CBP explained that the computer systems managing the plate making operations are "integrated with the thermal printing platesetters . . ." This is the accurate description of the plate making process undertaken by the subject machines, which contrasts with the process by which other plate making machines use lasers to impose digital images on photosensitive film for ultimate creation of printing plates.

Thus, while the technology incorporated by the subject CTP products may fit within the broad definition of "photography" in the sense that the IR laser is a form of radiant energy, and the plates are pre-sensitized, the technology does not fall within scope of the term "photographic cameras" contemplated

* EN 84.42(A) states that "the heading excludes photographic cameras, photographic enlargers or reducers, photographic contact printers and similar photographic apparatus for preparing printing plates or cylinders (**Chapter 90**) . . ." (Emphasis in original).

by heading 9006, HTSUS, because the plate making process does not involve the exposure of film to light. Rather, the subject merchandise incorporates technology that directly casts an image onto the aluminum printing plates using either a physical or chemical reaction achieved only through the precise application of heat in the form of a laser. For instance, the melting of thermoplastic beads directly onto the physical thermal aluminum plate is entirely distinguishable from the photographic process employed by a good of heading 9006, HTSUS. The chemical reaction catalyzed by the direct application of the IR laser, which causes polymers to bind directly to the chemical thermal aluminum plate, also differs from the photographic plate making process covered by heading 9006, HTSUS.

Accordingly, we find that the subject plate making machines are not described by the term “photographic cameras”, which fall under heading 9006, HTSUS, because the plate making process conducted by the Platesetter, Lotem, and Trendsetter products is not “photographic”. Consequently, they are specifically provided for under heading 8442, HTSUS, as apparatus for preparing or making plates. *See also* HQ 086122, dated January 17, 1991 and HQ 088459, dated November 4, 1991.

HOLDING:

By application GRI 1, the aforementioned Platesetter, Lotem, and Trendsetter products are provided for in heading 8442, HTSUS. They are specifically classifiable in subheading 8442.30.0150, HTSUS, which provides for, in pertinent part: “Machinery, apparatus and equipment . . . for preparing or making plates, cylinders or other printing components . . . ; parts thereof: Machinery, apparatus and equipment . . . Other machinery, apparatus and equipment”. The column one, general rate of duty is free.

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

EFFECT ON OTHER RULINGS:

NY 898413, dated June 20, 1994, and NY R01892, dated May 26, 2005, are hereby MODIFIED.

MYLES B. HARMON,

Director,

Commercial and Trade Facilitation Division.

**CLA-2 OT:RR:CTF:TCM
HQ H005083 ASM**

**PROPOSED MODIFICATION OF A RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF THE “FIRSTMATE” SHOE**

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

ACTION: Proposed modification of a classification ruling letter and revocation of treatment relating to the classification of certain shoes.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is proposing to revoke a ruling letter relating to the classification of an article identified as the “Firstmate” shoe. CBP is also proposing to modify or revoke any treatment previously accorded by it to substantially identical merchandise.

DATE: Comments must be received on or before May 10, 2009.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations & Rulings, Attention: Trade and Commercial Regulations Branch, 799 9th Street, NW, Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Ann Segura Minardi, Tariff Classification and Marking Branch: (202) 325-0031.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S. C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to modify a ruling letter pertaining to the classification of an article identified as the “Firstmate” shoe. Although in this notice, CBP is specifically refer-

ring to the modification of New York Ruling Letter (NY) M86737, dated October 13, 2006 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is proposing to modify 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 the effective date of the final decision on this notice.

In NY M86737, CBP determined that the "Firstmate" style shoe was an "open-heel" shoe for classification purposes. Thus, the merchandise was classified in subheading 6402.99.30, HTSUSA, which provides for footwear in which both the upper and outer sole's external surface is predominately rubber and/or plastics; which is not "sports footwear"; and which does not cover the ankle.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to modify NYM86737 and is proposing to revoke or modify any other ruling not specifically identified, to reflect the classification of the "Firstmate" style shoe according to the analysis contained in proposed Headquarters Ruling Letter (HQ) H005083, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

DATED: March 19, 2009

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

Attachments



[ATTACHMENT A]

NY M86737
October 13, 2006
CLA-2-64:RR:NC:SP:247 M86737
CATEGORY: Classification
TARIFF NO.: 6402.99.30 ; 6402.99.80

MS. MELISSA FOX
BARTHCO INTERNATIONAL INC.
5101 S. Broad Street
Philadelphia, PA 19112-1404

RE: The tariff classification of footwear from China

DEAR MS. FOX:

In your letter dated September 15, 2006, on behalf of Nine West, Inc., you requested a tariff classification ruling for two half pair samples of women's shoes with rubber/plastic soles and uppers that do not cover the wearer's ankle.

Style "Firstmate" is a closed-toe, open-heel shoe with a functionally stitched upper comprised of both rubber/plastics and textile materials, with rubber/plastics being the predominant external surface area upper material. The shoe also has open vented side panels, two rubber/plastic hook-and-loop closure straps over the instep and a molded rubber/plastic bottom that overlaps the upper with a foxing-like band. You state in your letter that textile materials account for more than 10% and rubber/plastics material account for over 50% of the external surface area of the upper. Since this shoe has an open-heel, the classification you have suggested is not correct.

Style "Funjet" is a closed-toe, closed-heel, slip-on shoe with a functionally stitched upper comprised of both rubber/plastics and stretch textile materials. You state in your letter that rubber/plastics is the predominant external surface area upper material. The shoe has open vented side panels, a hook-and-loop strap fastened to the side of the ankle that is not a functional closure and a molded rubber/plastic bottom that overlaps the upper with a foxing-like band. Textile material accounts for more than 10% of the external surface area of the upper. You state in your letter that this shoe will be valued at over \$6.50 but not over \$12 per pair.

The applicable subheading for the shoe identified as Style "Firstmate" will be 6402.99.30, Harmonized Tariff Schedule of the United States (HTSUS), which provides for footwear, in which both the upper's and outer sole's external surface is predominately rubber and/or plastics; which is not "sports footwear"; which does not cover the ankle; in which the upper's external surface area does not measure over 90% rubber or plastics (including any accessories or reinforcements); and which has open toes or open heels. The rate of duty will be 37.5% ad valorem.

The applicable subheading for the shoe identified as Style "Funjet" will be 6402.99.80, HTSUS, which provides for footwear, in which both the upper's and outer sole's external surface is predominately rubber and/or plastics; which is not "sports footwear"; which does not cover the ankle; in which the upper's external surface area does not measure over 90% rubber or plastics (including any accessories or reinforcements); which has a foxing or a foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper ; which is not designed to be a protection

against water, oil, or cold or inclement weather; and which is valued over \$6.50 but not over \$12.00 per pair. The rate of duty will be 90 cents per pair plus 20% ad valorem.

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

We are returning the samples as you requested.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177). Pursuant to title 19 United States Code, Section 3005 The Harmonized Tariff Schedule of the United States is expected to be amended effective 1/1/07. The amendments are expected to affect the classification of some of the merchandise described above. Pursuant to Section 3005 c, the report recommending those changes has been sent to the President for proclamation of the changes. Upon the expiration of sixty legislative days, in the absence of Congressional action, the recommended changes will become law. Accordingly based on that recommendation, it is anticipated that merchandise currently classified in HTS 6402.99.30 will be classified in HTS 6402.99.40 under the 2007 Harmonized Tariff Schedule. Under the circumstances, this classification under the 2007 tariff is advisory only. The tariff provisions for the other merchandise described above are unchanged in the 2007 tariff.

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 Richard Foley at 646-733-3042.

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

[ATTACHMENT B]

HQ H005083
CLA-2 OT:RR:CTF:TCM H005083 ASM
CATEGORY: Classification
TARIFF NO.: 6402.99.8060

SARAH O'HARE O'NEAL
ROBERT B. SILVERMAN, ESQ.
GRUNFELD, DESIDERIO, LEBOWITZ, SILVERMAN & LESTADT, LLP
399 Park Avenue
25th Floor
New York, NY 10022-4877

RE: Modification of NY M86737, dated October 13, 2006; Tariff Classification of the "Firstmate" Shoe

DEAR MS. O'NEAL AND MR. SILVERMAN:

This is in response to a request for reconsideration dated December 21, 2006, made on behalf of your client, Nine West Footwear Corp. (hereinafter "Nine West"), of New York Ruling letter (NY) M86737, issued by Customs and Border Protection (CBP) on October 13, 2006, which classified, in rel-

evant part, the subject footwear, identified as “Firstmate”, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). A sample has been submitted to CBP for examination.

CBP has reviewed the classification of the “Firstmate” shoe and determined that the cited ruling is in error.

FACTS:

The subject article is a woman’s shoe identified as “Firstmate”. This shoe features a closed toe with a functionally stitched upper comprised of rubber, plastic, and textile materials. The predominant materials used to construct the external surface of the upper are rubber and plastic. The shoe also has open side panels with two hook-and-loop style closures over the instep. The heel of the shoe is also constructed with an adjustable hook-and-loop closure strap that is secured through a loop sewn to a rubber panel measuring approximately 2 inches wide x 2½ inches high. This allows for a small vented opening on either side of the heel panel. The sole is constructed of a molded rubber and plastic bottom that overlaps the upper with a foxing-like band.

In NY M86737, CBP determined that the “Fistmate” style shoe was an “open-heel” shoe for classification purposes. Thus, the merchandise was classified in subheading 6402.99.30, HTSUSA, which provides for footwear in which both the upper and outer sole’s external surface is predominately rubber and/or plastics; which is not “sports footwear”; and which does not cover the ankle.

You have asserted, on behalf of Nine West, that NY M86737 is erroneous with respect to the classification of the “Firstmate” shoe and that it should have been classified as a “closed-heel” shoe under subheading 6402.99.8060, HTSUSA.

ISSUE:

Whether the “firstmate” is classified in subheading 6402.99.30, HTSUSA, as an open-heel shoe or in subheading 6402.99.80, HTSUSA, as a closed-heel shoe.

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). 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 may then be applied.

Subheading 6402.99.30, HTSUSA (2006), provided for “Other footwear with outer soles and uppers of rubber or plastics; Other footwear : Other: Other: Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear of subheading 6402.99.20 and except footwear having a foxing or a foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper”.

Subheading 6402.99.80, HTSUSA (2006), provided for “Other footwear with outer soles and uppers of rubber or plastics; Other footwear: Other: Other: Other: Valued over \$6.50 but not over \$12/pair”.

In this instance, it is important to note that GRI 6 is applicable and provides as follows:

For legal purposes, 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 the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires.

On November 17, 1993, in the Customs Bulletin, Volume 27, Number 46, CBP published Treasury Decision (T.D.) 93-88, which contains certain footwear definitions. The footwear definitions are merely guidelines but state, in pertinent part, that for footwear classification purposes, CBP interprets the "heel" to be the rearmost boney part of the human foot, the top of which is located just below the Achilles tendon. Further, "open" is defined as "[i]n open heeled shoes, all or part of the back of the wearer's heel can be seen".

After careful examination of the sample provided, we now note that the heel panel is sufficiently wide (2 inches wide x 2½ inches high) to completely cover the rearmost boney part of the average human foot. As such, we note that the subject "Firstmate" shoe was erroneously classified as an "open-heel" shoe in NY M86737.

In view of the foregoing, we now find that the subject sample is not an "open heel" shoe but is properly classified as a "closed heel" shoe in subheading 6402.99.8060, HTSUSA.

HOLDING:

The subject merchandise, identified as the "Firstmate" shoe, was correctly classified in subheading 6402.99.8060, HTSUSA, which provides for "Other footwear with outer soles and uppers of rubber or plastics: Other footwear: Other: Other: Valued over \$6.50 but not over \$12/pair, For women". The 2009 general column one rate of duty is 90 cents/pair + 20 percent *ad valorem*.

EFFECT ON OTHER RULINGS:

NY M86737, dated October 13, 2006, will be modified.

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