

# U.S. Customs and Border Protection



## **PROPOSED REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE COUNTRY OF ORIGIN MARKING OF DENTAL INSTRUMENTS**

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

**ACTION:** Notice of proposed revocation of one ruling letter, and revocation of treatment relating to the country of origin marking of dental instruments.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke one ruling letter concerning country of origin marking of dental instruments under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

**DATES:** Comments must be received on or before March 10, 2017.

**ADDRESSES:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above 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:** Parisa J. Ghazi, Tariff Classification and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0272.

## 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) (“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 public 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, this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the country of origin marking of dental instruments. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) A81309, dated April 19, 1996 (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 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 decision on this notice.

In NY A81309, CBP determined that “the light manufacturing processes undertaken in the U.S. would not change the character of the handle which retains its own identity. ‘Handle made in Pakistan’ die stamped or engraved in the handle would be an acceptable form of marking.” It is now CBP’s position that the imported handles are substantially transformed in the United States when they are combined with the U.S. manufactured function-specific working ends as described above. Therefore, Hu-Friedy is the ultimate purchaser of the handles and the handles are excepted from marking. The outermost container in which the handles ordinarily reach the ultimate purchaser must be marked in accordance with 19 C.F.R. § 134.22, 134.24(d)(1) and 134.35(a).

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY A81309 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H278602, set forth as Attachment B to this notice. 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, consideration will be given to any written comments timely received.

Dated: January 24, 2017

ELIZABETH JENIOR  
*for*

MYLES B. HARMON,  
*Director*

*Commercial and Trade Facilitation Division*

Attachments

## ATTACHMENT A

NY A81309

April 19, 1996

MAR-2-90:R:N4:119 A81309

CATEGORY: MARKING

MR. HERB SIMON  
HU-FRIEDY  
3232 N. ROCKWELL STREET  
CHICAGO, IL 60618-5982

RE: THE COUNTRY OF ORIGIN MARKING OF A DENTAL  
INSTRUMENT

DEAR MR. SIMON:

In your letter dated March 1, 1996 (received March 20, 1996 by this office) you requested a country of origin marking ruling on a dental instrument manufactured partly in the United States and partly in Pakistan.

The samples you furnished consist of one finished Elevator, one finished and two unfinished handles. The Elevator is a dental instrument used to loosen a tooth from the periodontal ligament and ease extraction. It consists of a handle and a blade. The blade is referred to in your catalog as a shank with working end.

The finished Dental Elevator sample you furnished measures 5 5/8 inches in overall length. The hollow handle is 3 3/4 inches long with a tapered body from 3 1/8 to 2 1/8 inches in circumference. It has been polished and sandblasted for a non-slip grip. The 1 7/8 inch long blade (measured on a straight line) has a curved and flattened tip.

Of the three handles furnished, one is completely finished, another has been polished but not sandblasted, and the third grip has been neither polished nor sandblasted. All three handles have pre-formed holes to receive the blade shank.

The blade is to be manufactured entirely in the United States, but you plan to import the handle from Pakistan either completely finished or semi-finished as described above and attach the blade by gluing.

You inquire as to whether the finished Dental Elevator can still be marked "Made in U.S.A."

Regardless of the Customs Service's determination of the country of origin of a product that is partly manufactured in a foreign country, the Federal Trade Commission generally prohibits the marking of an article "Made in U.S.A." if a significant part of that article is of foreign origin.

For Customs' purposes, the marking statute, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article.

In addition, Section 134.43(a) of the Customs Regulations requires that certain articles such as dental instruments and parts thereof be marked by means of die stamping, cast-in-mold lettering, etching, engraving, or by affixing metal plates to the article.

An imported article that is substantially transformed by manufacturing in the United States into another article of commerce \_\_ having a name, character, or use different from that of the imported article \_\_ can be considered to be a product of the United States.

In this case, the light manufacturing processes undertaken in the U.S. would not change the character of the handle which retains its own identity. “Handle made in Pakistan” die stamped or engraved in the handle would be an acceptable form of marking.

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.

If you have any questions pertaining to this matter, please contact National Import Specialist Jacques Preston of this office at (212) 466-5488.

*Sincerely,*

ROGER J. SILVESTRI

*Director*

*National Commodity Specialist Division*

## ATTACHMENT B

HQ H278602

CLA-2 OT:RR:CTF:TCM H278602 PJG

Category: Marking

ERIC R. ROCK

ROCK TRADE LAW LLC

564 W. RANDOLPH ST., 2ND FLOOR

CHICAGO, ILLINOIS 60661

Re: Revocation of NY A81309; Country of origin marking for dental instruments

DEAR MR. ROCK:

This is in response to your request for reconsideration dated June 20, 2016, of New York Ruling Letter (“NY”) A81309, dated April 19, 1996, issued to Mr. Herb Simon, on behalf of Hu-Friedy Manufacturing Company, LLC (“Hu-Friedy”). In NY A81309, U.S. Customs and Border Protection (“CBP”) considered the country of origin marking of a dental instrument wherein the handle was imported from Pakistan and it was assembled in the United States with the United States’ manufactured working end. CBP determined that after the light manufacturing processes undertaken in the United States, the handle retained its own identity and therefore the country of origin for marking purposes of the handle was Pakistan. We have reviewed NY A81309 and find it to be in error. For the reasons set forth below, we hereby revoke NY A81309.

**FACTS:**

The merchandise at issue is described in NY A81309 as follows:

The samples you furnished consist of one finished Elevator, one finished and two unfinished handles. The Elevator is a dental instrument used to loosen a tooth from the periodontal ligament and ease extraction. It consists of a handle and a blade. The blade is referred to in your catalog as a shank with working end.

The finished Dental Elevator sample you furnished measures 5 5/8 inches in overall length. The hollow handle is 3 3/4 inches long with a tapered body from 3 1/8 to 2 1/8 inches in circumference. It has been polished and sandblasted for a non-slip grip. The 1 7/8 inch long blade (measured on a straight line) has a curved and flattened tip.

Of the three handles furnished, one is completely finished, another has been polished but not sandblasted, and the third grip has been neither polished nor sandblasted. All three handles have pre-formed holes to receive the blade shank.

The blade is to be manufactured entirely in the United States, but you plan to import the handle from Pakistan either completely finished or semi-finished as described above and attach the blade by gluing.

In NY A81309, CBP determined that “the light manufacturing processes undertaken in the U.S. would not change the character of the handle which retains its own identity. ‘Handle made in Pakistan’ die stamped or engraved in the handle would be an acceptable form of marking.”

The manufacturing and assembly scenario that you describe in your request for reconsideration is as follows:

- Hu-Friedy purchases semi-manufactured steel components called turnings from a vendor in the United States. The turnings consist of steel bar stock that has been cut to length and tapered at one end. The bar stock used by the vendor as the input material in the turnings is manufactured in the United States from U.S. steel.
- The turnings are machined and punched to form a specific shape and, depending on the elevator model, are bent to exacting dimensions to form the working ends of the elevators.
- The working ends are heat-treated to retain their hardness. The heat treating operations are either performed by Hu-Friedy in its manufacturing facility in Chicago or performed by a third-party vendor in the United States.
- After heat treatment, the ends are burnished through a ‘speed shine’ process and/or electro-polished to form a smooth shine.

At this point, the working ends are ready to be assembled to the imported handles. The assembly process is outlined below:

- The handles are imported with a hole at one end to receive the working ends. A bonding agent is inserted into the hole. The bonding agent serves as both a sealant to prevent moisture from entering the hole where the working end is assembled and an adherent to the working end.
- The handle is placed into an arbor press and press fit to the working end. At this time, the handle and working end are irreversibly joined. There is no expectation that the components would be subsequently separated by the end-user.
- The assembled elevator is laser marked with a part code, date code and Hu-Friedy’s logo.
- The elevator is cleaned, and any excess material is removed.
- The elevator is placed into an oven to cure the bonding agent and seal the assembly joint.
- After curing, the elevator is buffed to make it shine, polished to make the final working end sharp, and cleaned again.

You submitted three samples with your request and we note that the “function-specific working end, or ‘point’” to the handles are marked “MADE IN U.S.A.” and there are no country of origin markings on the handles. In your submission, you note that “these items did not have handles sourced in Pakistan, and were manufactured in the U.S. from U.S. materials.”

**ISSUE:**

Whether substantial transformation occurs when dental instrument handles that are imported from Pakistan are assembled in the United States with working ends that are manufactured in the United States from United States' steel, thereby excepting the components from country of origin marking.

**LAW AND ANALYSIS:**

The marking statute, Section 304, Tariff Act of 1930, as amended (19 U.S.C. § 1304(a)), provides that unless excepted, every article of foreign origin imported into the United States shall be marked in a conspicuous place as legibly, and permanently as the nature of the article (or container) will permit, in such a manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of the article.

Part 134 of Title 19 of the Code of Federal Regulations (19 C.F.R. Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. § 1304. Section 134.14(a) and (c) (19 C.F.R. § 134.14(a) and (c)) provide as follows:

(a) *Articles combined before delivery to purchaser.* When an imported article is of a kind which is usually combined with another article after importation but before delivery to an ultimate purchaser and the name indicating the country of origin of the article appears in a place on the article so that the name will be visible after such combining, the marking shall include, in addition to the name of the country of origin, words or symbols which shall clearly show that the origin indicated is that of the imported article only and not that of any other article with which the imported article may be combined after importation.

\* \* \*

(c) *Applicability.* This section shall not apply to articles of a kind which are ordinarily so substantially changed in the United States that the articles in their changed condition become products of the United States. An article excepted from marking under subpart D of this part is not within the scope of section 304(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)(2)), and is not subject to the requirements of this section.

Section 134.35(a) of the C.F.R. (19 C.F.R. § 134.35(a)) states as follows:

(a) *Articles other than goods of a NAFTA country.* An article used in the United States in manufacture which results in an article having a name, character, or use differing from that of the imported article, will be within the principle of the decision in the case of *United States v. Gibson-Thomsen Co., Inc.*, 27 C.C.P.A. 267 (C.A.D. 98). Under this principle, the manufacturer or processor in the United States who converts or combines the imported article into the different article will be considered the "ultimate purchaser" of the imported article within the contemplation of section 304(a), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)), and the article shall be excepted from marking. The outermost containers of the imported articles shall be marked in accord with this part.

Section 134.41(b) (19 C.F.R. § 134.41(b)), mandates that the ultimate purchaser in the U.S. must be able to find the marking easily and read it without strain. In order to satisfy the requirements of 19 U.S.C § 1304, a dental



instrument must be legibly marked with the name of the country of manufacture of the dental instrument in a conspicuous place.

In addition, section 134.43(a) (19 C.F.R. § 134.43(a)), places special marking requirements on certain products, including dental instruments. In pertinent part, 19 C.F.R. § 134.43(a), states as follows:

articles of a class or kind listed below shall be marked legibly and conspicuously by die stamping, cast-in-the-mold lettering, etching (acid or electrolytic), engraving, or by means of metal plates which bear the prescribed marking and which are securely attached to the article in a conspicuous place by welding, screws, or rivets: knives, forks, steels, cleavers, clippers, shears, scissors, safety razors, blades for safety razors, surgical instruments, *dental instruments*, scientific and laboratory instruments, pliers, pincers, nippers and hinged hand tools for holding and splicing wire, vacuum containers, and parts of the above articles. (emphasis added)

Two court cases have considered whether imported parts combined in the U.S. with domestic parts were substantially transformed for country of origin marking purposes: *United States v. Gibson-Thomsen Co.*, 27 C.C.P.A. 267 (1940), and *Uniroyal, Inc. v. United States*, 3 Ct. Int'l Trade 220 (1982), aff'd 702 F.2d 1022 (Fed. Cir. 1983). In *Gibson-Thomsen*, the court held that imported wood brush block and toothbrush handles which had bristles inserted into them in the United States lost their identity as such and became new articles having "a new name, character and use." 27 C.C.P.A. at 273. However, in *Uniroyal*, imported shoe uppers were found to be the "essence of the completed shoe" and, therefore, were not substantially transformed when combined with domestic soles in the United States. 702 F.2d at 1022.

In *National Hand Tool Corp. v. United States*, 16 Ct. Int'l Trade 308, 309, the court determined that mechanics' hand tool components which "it used to produce flex sockets, speeder handles, and flex handles" were imported from Taiwan and "processed and assembled in the United States" were not substantially transformed in the United States and therefore were not excepted from the country of origin marking requirements of 19 U.S.C. § 1304. Specifically, the court found "that the name, character or use of the merchandise did not change by post-importation processing, and no substantial transformation occurred." *Id.* In *National Hand Tool Corp.*, most of "[t]he components were cold-formed or hot-forged in Taiwan into their final shape before importation .... [t]he grip components of flex handles ... were knurled in the United States.... [s]ome of the articles ... were heat-treated in the United States while others ... underwent heat treatment in Taiwan", similarly, "[s]ome articles ... were electroplated in the United States while other articles ... were electroplated in Taiwan." The manual assembly of the components occurred in the United States. *Id.* at 310. Ultimately, "[t]he Court found that pre-importation processing of cold-forming and hot-forging required more complicated functions than post-importation processing." *Id.* The Court found that "the name of each article as imported has the same name in the completed tool," the heat treatment, electroplating and assembly did not alter the character of the articles, and "the form of the components remained the same since each component was either hot-forged or cold-formed into its final shape in Taiwan, except for the speeder handle bars," and finally, "[t]he use of the imported articles was predetermined at the time of importation." *Id.* at 311. Importantly, the court notes that "the determination of substantial transformation must be based on the totality of the evidence." *Id.* at 312.

You argue that “the manufacturing processes that define the finished product are the processes of forming the elevator points” because of the skill and precision involved in that process. You also note that each of the elevators is used for a particular purpose depending on their form and argue that the instruments “must be carefully shaped to exacting specification in order to perform their intended function.” You further argue that “the process of manufacturing the working ends of the dental elevators is the process that defines the name, character, and use of the finished product” rather than handles or the final assembly and that the “handles themselves lose their separate identity as handles when assembled to the functional ends.” You claim that “the handles do not have a predestined use with any specific model of dental elevator at the time of importation” and that they “do not contribute to the functionality of the working elevator points.” You also state that “[t]he finished product is identified by the working point, regardless of what kind of handle is assembled to that point.”

In support of your arguments, you cite to HQ 560303, dated August 19, 1997, and HQ H229158, dated November 14, 2012. In HQ 560303, CBP considered whether welded handles were imported from Germany to be combined with function-specific ends of medical/surgical instruments underwent a substantial transformation in the United States. In that ruling, CBP held that the imported handles underwent a substantial transformation in the United States, and the handle’s name, character, and use are changed in the United States as a result of the operations performed in the United States.

In HQ H229158, CBP considered several scenarios to determine whether the assembly of imported parts and subassemblies to parts of U.S. origin in the United States would amount to a substantial transformation in the United States. CBP also considered whether imported subassemblies that were “entirely operational” underwent substantial transformation in the United States. With regard to Scenario A, CBP found that the merchandise was substantially transformed in the United States when it was assembled into finished tools because the imported parts and components were “unfinished and lack essential components of tool assemblies, namely one of the fully-functional core components.” CBP held that “[s]ince the components have no independent functionality, they lose their separate identity by incorporation into the U.S. assembly operations.” With regard to the Scenarios B through F, CBP found that “the most complex function-specific operations are performed abroad, clearly impact the essential character to the finished tool” and that “the assembly operations ...in the U.S. ...mainly attaching and threading unto one another – are not sufficiently complex to change the name, character or use of the imported parts.” You argue that these two rulings should have resulted in a revocation of NY A81309.

The instant dental instruments’ manufacturing process closely resembles the brushes in *Gibson*, the surgical tools in HQ 560303, and Scenario A of HQ H229158. Like these products, there is a change to the name, character, and use of the subject imported article. After the “handle” is imported into the United States and assembled with the “working end”, the complete article is called a “dental instrument,” or as you refer to it, a “dental elevator.” Like the merchandise in Scenario A of HQ H229158, the handles lack the essential components of the dental instrument – the working end. The imported handles alone are not functional and their use is determined after they are attached to the working end as a result of the U.S. assembly operation.

Unlike the tools in *National Hand Tool Corp.* and the merchandise in Scenarios B through F of H229158, the processing performed in the United States involves more than just assembly and finishing operations. The bar stock used to develop the function-specific ends is purchased in the United States and is bent, heat-treated, polished, and finished in the United States. Considering the totality of the facts, we find that substantial transformation occurred in the United States. Pursuant to 19 C.F.R. § 134.35(a), Hu-Friedy is the ultimate purchaser of the handles, and so the handles are excepted from marking. Only the outermost containers of the imported handles are required to be marked at importation.

With regard to merchandise whose origin is the United States, 19 U.S.C. § 1304 is inapplicable and no country of origin marking is required by the provision. The Federal Trade Commission (“FTC”) has jurisdiction concerning the use of the phrase “Made in the U.S.A.,” or similar words denoting U.S. origin. Consequently, any inquiries regarding the use of such phrases reflecting U.S. origin should be directed to the FTC, at the following address: Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

**HOLDING:**

The imported handles are substantially transformed in the United States when they are combined with the U.S. manufactured function-specific working ends as described above. Therefore, Hu-Friedy is the ultimate purchaser of the handles and the handles are excepted from marking. The outermost container in which the handles ordinarily reach the ultimate purchaser must be marked in accordance with 19 C.F.R. § 134.22, 134.24(d)(1) and 134.35(a).

**EFFECT ON OTHER RULINGS:**

NY A81309, dated April 19, 1996, is hereby REVOKED.

*Sincerely,*

MYLES B. HARMON,  
*Director*

*Commercial and Trade Facilitation Division*

**PROPOSED REVOCATION OF TWO RULING LETTERS  
AND PROPOSED REVOCATION OF TREATMENT  
RELATING TO THE TARIFF CLASSIFICATION OF  
REUSABLE DIAPER COVERS**

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

**ACTION:** Notice of proposed revocation of two ruling letters and revocation of treatment relating to the tariff classification of reusable diaper covers.

**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 Implementa-

tion Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke two ruling letters concerning tariff classification of reusable diaper covers under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

**DATES:** Comments must be received on or before March 10, 2017.

**ADDRESSES:** Written comments are to be addressed to the U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above 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:** Tatiana Salnik Matherne, Tariff Classification and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0351.

#### **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) (“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 public 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, this notice advises interested parties that CBP is proposing to revoke two ruling letters pertaining to the tariff classification of reusable diaper covers. Although in this notice CBP is specifically referring to New York Ruling Letter (NY) N266884, dated August 13, 2015 (Attachment A), and NY N266899, dated August 15, 2015 (Attachment B), 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 two 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 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 decision on this notice.

In NY N266884, CBP classified the reusable diaper covers at issue in heading 9619, HTSUS, specifically in subheading 9619.00.21, HTSUS, which provides for "Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Of textile wadding: Of cotton." Moreover, in NY N266899, CBP classified the washable diaper covers in subheading 9619.00.74, HTSUS, which provides for "Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Other, of textile materials: Other: Of man-made fibers." CBP has reviewed NY N266884 and NY N266899, and has determined those ruling letters to be in error. It is now CBP's position that reusable diaper covers are properly classified, by operation of GRIs 1, 3(b) and 6, in heading 6111, HTSUS. The diaper covers at issue in NY N266884 will be classified in subheading 6111.20.60, HTSUS, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of cotton: Other: Other." The diaper covers at issue in NY N266899 will be classified in subheading 6111.30.50, HTSUS, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of synthetic fibers: Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to revoke NY N266884 and NY N266899, and to modify or revoke any other ruling not specifically identified, to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H271286, set forth as Attachment C to this notice. 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, consideration will be given to any written comments timely received.

Dated: January 24, 2017

ELIZABETH JUNIOR  
*for*

MYLES B. HARMON,  
*Director*

*Commercial and Trade Facilitation Division*

Attachments

## ATTACHMENT A

N266884

August 13, 2015

CLA-2-96:OT:RR:NC:N4:234

CATEGORY: Classification

TARIFF NO.: 9619.00.2100; 9619.00.0500

MR. TYLER PECHETTE

GDIAPERS

2808 NE MLK BLVD. SUITE G

PORTLAND, OR 97212

RE: The tariff classification of a baby diaper cover and diaper inserts from China.

DEAR MR. PECHETTE:

In your letter dated July 21, 2015 you requested a tariff classification ruling. The sample submitted will be returned to you.

The submitted item, style number GD207, is described as a Little G diaper system. The style consists of a diaper cover with lining and a detachable interior pouch. The outer shell of the diaper cover is made of 92% cotton, 8% spandex jersey knit fabric. The diaper cover lining is made of cotton jersey fabric. The diaper cover lining is made of cotton jersey fabric. The interior pouch, which secures to the diaper cover with plastic snaps, is made of woven nylon fabric that is coated with polyurethane. The diaper cover leg openings are finished with rib knit fabric. The interior pouch has elasticized fabric capping at the outer edges. Style GD207 is a composite good, the essential characteristic of which is imparted by the outer shell fabric.

The detachable nylon pouch will also be imported separately as Style GL100.

The applicable subheading for the Style GD207 will be 9619.00.2100, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sanitary towels (pad) and tampons, diapers and diaper liners for babies and similar sanitary articles, of any material: of textile wadding; of cotton. The rate of duty is 3.6 percent ad valorem.

The applicable subheading for the Style GL100 will be 9619.00.0500, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sanitary towels (pad) and tampons, diapers and diaper liners for babies and similar sanitary articles, of any material: of plastics. The rate of duty is 5 percent ad valorem.

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

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 Albert Gamble at [albert.gamble@cbp.dhs.gov](mailto:albert.gamble@cbp.dhs.gov).

*Sincerely,*

GWENN KLEIN KIRSCHNER

*Director**National Commodity Specialist Division*



## ATTACHMENT B

N266899

August 19, 2015

CLA-2-96:OT:RR:NC:N4: 234

CATEGORY: Classification

TARIFF NO.: 9619.00.7400

MR. TYLER PECHETTE

GDIAPEERS

2808 NE MLK BLVD, SUITE G

PORTLAND, OREGON 97212

RE: The tariff classification of Little G Pants from China.

DEAR MR. PECHETTE:

In your letter dated July 15, 2015 you requested a tariff classification ruling. The samples submitted will be returned to you.

The submitted item, style number GD400, is described as a "Little G Pants". The item is a washable diaper cover designed for use with a disposable insert. The outer shell is black and gray with a large black lower case "g" outlined in red on the backside. The lining is gray. The outer shell of the pant is made of 95% polyester and 5% wool. The pant lining is made of 92% cotton and 8% spandex. There are plastic snaps in all four corners of the lining to secure an insert. The detachable nylon insert is not imported with the pants.

The applicable subheading for the Style GD400 will be 9619.00.7400, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Other: Of man-made fibers. The rate of duty will be 16 percent ad valorem.

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

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 Albert Gamble at [albert.gamble@cbp.dhs.gov](mailto:albert.gamble@cbp.dhs.gov).

*Sincerely,*

GWENN KLEIN KIRSCHNER

*Director**National Commodity Specialist Division*



## ATTACHMENT C

HQ H271286  
CLA-2 OT:RR:CTF:TCM H271286 TSM  
CATEGORY: Classification  
TARIFF NO.: 6111.20.60

MR. MATTHEW CLARK  
SEKO CUSTOMS BROKERAGE INC.  
1100 ARLINGTON HEIGHTS ROAD  
ITASCA, IL 60143

RE: Revocation of NY N266884 and NY N266899; Classification of Reusable Diaper Covers.

DEAR MR. CLARK:

This letter is in response to your request for reconsideration of New York Ruling Letter (NY) N266884, issued to gDiapers on August 13, 2015, concerning the tariff classification of reusable diaper covers. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the subject merchandise in subheading 9619.00.21, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Of textile wadding: Of cotton.” Furthermore, CBP classified the subject detachable interior pouches in subheading 9619.00.05, HTSUS, which provides for “Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Of plastics.”

For the reasons set forth below we hereby revoke NY N266884. In addition, we hereby revoke NY N266899, dated August 19, 2015, which classified washable diaper covers in subheading 9619.00.74, HTSUS, which provides for “Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Other, of textile materials: Other: Of man-made fibers.”

**FACTS:**

The gDiaper system consists of three components. The first component (GD207) is the outer shell, which is made of 92% cotton and 8% spandex jersey knit fabric. The second component (GL100) is a liner which snaps into the outer shell. The liner is made of woven nylon fabric coated with polyurethane. This liner is designed to prevent leakage. The third component is an absorbent insert (GC100). We note that our office received samples of the instant merchandise. The gDiaper system absorbent inserts are made in the United States and sold separately from the outer shell and the liner. Therefore, this ruling letter only addresses the tariff classification of the outer shell and the liner, which are imported together.

**ISSUE:**

What is the tariff classification of the reusable diaper covers and liners at issue under the HTSUS?

**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.

GRI 2(b) provides, in pertinent part, that the classification of goods consisting of more than one material or substance shall be according to the principles of rule 3. GRI 3 states that, when goods are *prima facie* classifiable under two or more headings, classification shall be effected as follows:

(a) ...when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods...those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

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

The HTSUS provisions under consideration are as follows:

6111	Babies' garments and clothing accessories, knitted or crocheted:			
6111.20	Of cotton:			
	Other:			
6111.20.60	Other	*	*	*
6111.30	Of synthetic fibers:			
6111.30.50	Other	*	*	*
9619.00	Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material:			
9619.00.05	Of plastics	*	*	*
	Of textile wadding:			
9619.00.21	Of cotton	*	*	*
	Diapers of other textile materials:			
	Of cotton:			
9619.00.31	Of knitted or crocheted textile fabric	*	*	*

Babies' garments and clothing accessories are provided for in heading 6111, HTSUS. Note 1(u) to Section XI, which covers Chapter 61 and heading 6111, HTSUS, provides the following:

This section does not cover:

Articles of chapter 96 (for example, brushes, travel sets for sewing, slide fasteners, typewriter ribbons, sanitary towels (pads) and tampons, napkins (diapers) and napkin liners for babies).

In your submission, you argue that, as composite goods, the diaper outer shells and interior liners (Styles GD207 and GL100) are classified in sub-heading 9619.00.31, HTSUS, which provides for “Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Diapers of other textile materials: Of cotton: Of knitted or crocheted textile fabric.” You allege that the shells and the liners are not classified in subheading 9619.00.21, HTSUS, as “Sanitary towels (pads) and tampons, diapers and diaper liners for babies and similar articles, of any material: Of textile wadding: Of cotton,” since neither component of the gDiaper system is made up of wadding.

As referenced above, heading 9619, HTSUS, provides for, among other items, diapers and diaper liners for babies, and similar articles. The term “diapers” is not defined in the HTSUS or ENs. In cases where tariff terms are undefined, they are to be construed in accordance with their common and commercial meanings which are presumed to be the same (*Nippon Kogaku, Inc. v. United States*, 69 CCPA 89, 92, 673 F.2d 380 (1982); see also *Nylos Trading Company v. United States*, 37 CCPA 71, 73, C.A.D. 423 (1949), and *Winter-Wolff, Inc., v. United States*, CIT Slip Op. 98–15 (Customs Bulletin and Decisions, March 25, 1998, vol. 32, no. 12, 71, at 74, “When, however, a tariff term is not clearly defined by the statute or its legislative history, it is also fundamental that the correct meaning of the tariff term is ‘presumed to be the same as its common or dictionary meaning in the absence of evidence to the contrary’”).

The term “diaper” is defined, in Webster’s NewWorld Dictionary, Second College Edition © 1986, as follows:

**diaper** – *n.* kind of ornamented cloth **1.** *a)* org., cloth or fabric with a pattern of repeated small figures, such as diamonds *b)* a napkin, towel, etc. of such cloth *c)* such a pattern, as in art **2.** A soft, absorbent cloth folded and arranged between the legs and around the waist of a baby.

The Fairchild Dictionary of Textiles, 8th edition, © 2014, defines the term “diaper” as follows:

**diaper** – (diaper cloth) **1.** A soft, absorbent fabric used for diapers or (British usage) baby napkins; it may be made in bird’s-eye weave, plain weave cotton flannel, twill, double plain, or knit. When made of linen in a small diamond pattern, it is called *diaper linen*.

We note that while the knit fabric and the use of the fabric as being “arranged between the legs and around the waist of a baby” are contemplated by the above definitions, each definition also provides for a certain degree of absorbency.

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

The EN to heading 9619, HTSUS, also provides the following:

This heading covers sanitary towels (pads) and tampons, napkins (diapers) and napkin liners for babies and similar articles, including absorbent hygienic nursing pads, napkins (diapers) for adults with incontinence and pantyliners, of any material.

In general, the articles of this heading are disposable. Many of these articles are composed of (a) an inner layer (e.g., of nonwovens) designed to wick fluid from the wearer's skin and thereby prevent chafing; (b) an absorbent core for collecting and storing fluid until the product can be disposed of; and (c) an outer layer (e.g., of plastics) to prevent leakage of fluid from the absorbent core. The articles of this heading are usually shaped so that they may fit snugly to the human body. This heading also includes similar traditional articles made up solely of textile materials, which are usually re-usable following laundering.

This heading **does not cover** products such as disposable surgical drapes and absorbent pads for hospital beds, operating tables and wheelchairs or non-absorbent nursing pads or other non-absorbent articles (in general, classified according to their constituent material).

The above definitions of the term “diaper” and pertinent ENs show that heading 9619, HTSUS, provides for absorbent articles. Upon review, we find that the diaper shells and liners at issue are not designed to be absorbent in and of themselves. Effectively, they amount to no more than diaper covers. The component which provides absorbency — the absorbent insert, is made in the United States and not imported with the diaper shells and liners. Therefore, we conclude that the diaper shells and liners (diaper covers) lack the essential absorbent component required for classification in heading 9619, HTSUS. Accordingly, we find that they are not “diapers” of heading 9619, HTSUS, and are not classified in this heading.<sup>1</sup>

As discussed above, the diaper covers at issue consist of the diaper outer shells and liners. The outer shells are always imported with the interior liners, constituting a system. The liner snaps into the outer shell. Both items are dysfunctional and useless if used individually. In this regard, GRI 2(b) states, in pertinent part, that the classification of goods consisting of more than one material or substance shall be made according to the principles of GRI 3.

Upon review, we conclude that the diaper covers at issue are composite goods within the meaning of GRI 3(b), since they consist of two components — the outer shells and the interior liners. Under GRI 3(b), the merchandise must be classified as if it consisted of the component which gives the merchandise its essential character. The term “essential character” is not defined within the HTSUS, GRIs or ENs. However, EN VIII to GRI 3(b) gives guidance, stating that: “[T]he factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the good.”

---

<sup>1</sup> In your submission, you argued that the diaper shells and liners at issue are not classified in subheading 9619.00.21, HTSUS, since neither component of the gDiaper system is made up of wadding, defined as “soft materials used for stuffing or padding.” We agree with your argument that the diaper shells and liners at issue are not made up of wadding.

In Treasury Decision (T.D.) 91-78, effective December 11, 1991, CBP set forth its policy that while linings, interlinings or nonwoven insulating layers do impart desirable and, sometimes, necessary features to garments, it is usually the outer shell which imparts the essential character to the garment because the outer shell normally creates the garment. Accordingly, the classification of the diaper covers is determined by the classification of the outer shells.

Upon review, we find that the diaper shells (composed of 92% cotton and 8% spandex, finished with rib knit fabric), at issue in NY N266884, are knitted babies' garments. Therefore, we conclude that they are classified in heading 6111, HTSUS, and specifically in subheading 6111.20.60, HTSUS, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of Cotton: Other: Other." See NY N061196, dated May 20, 2009. Since the essential character of the diaper covers (consisting of the diaper shells and liners) is determined by the diaper shells, when imported together with the shells the liners are also classified in subheading 6111.20.60, HTSUS. The diaper covers at issue in NY N266899 are substantially similar, but they are comprised of knitted polyester fabric. Therefore, these diaper covers are classified in subheading 6111.30.50, HTSUS, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of synthetic fibers: Other."

**HOLDING:**

By application of GRIs 1, 3(b) and 6, the diaper covers, consisting of the diaper shells and liners, at issue in NY N266884, are classified in subheading 6111.20.60, HTSUS, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of Cotton: Other: Other." The 2017 column one, general rate of duty is 8.1% *ad valorem*.

By application of GRIs 1, 3(b) and 6, the diaper covers at issue in NY N266899 are classified in subheading 6111.30.50, HTSUS, which provides for "Babies' garments and clothing accessories, knitted or crocheted: Of synthetic fibers: Other." The 2017 column one, general rate of duty is 16% *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 Internet at [www.usitc.gov/tata/hts/](http://www.usitc.gov/tata/hts/).

**EFFECT ON OTHER RULINGS:**

NY N266884, dated August 13, 2015, and NY N266899, dated August 15, 2015, are hereby REVOKED.

*Sincerely,*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

**PROPOSED MODIFICATION AND REVOCATION OF  
RULING LETTERS RELATING TO CUSTOMS  
APPLICATION OF THE JONES ACT TO THE  
TRANSPORTATION OF CERTAIN MERCHANDISE AND  
EQUIPMENT BETWEEN COASTWISE POINTS; EXTENSION  
OF COMMENT PERIOD**

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

**ACTION:** Notice of proposal; extension of comment period.

**SUMMARY:** This document provides an additional 60 days for interested parties to submit comments on the notice of proposed modification and revocation of headquarters' ruling letters relating to U.S. Customs and Border Protection's ("CBP") application of the coastwise laws to certain merchandise and vessel equipment that are transported between coastwise points. The notice of proposal was published in the Customs Bulletin (Vol. 51, No. 3, at p. 1) on January 18, 2017, with comments due on or before February 17, 2017. CBP is extending the comment period to April 18, 2017.

**DATES:** Comments must be received on or before April 18, 2017.

**ADDRESSES:** Written comments are to be submitted to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, by electronic mail at *CBP-Publication Response@cbp.dhs.gov*. Submitted comments may be inspected on line at *www.cbp.gov*.

**FOR FURTHER INFORMATION CONTACT:** Chief, Cargo Security, Carriers, and Restricted Merchandise Branch, at (202) 325-0030.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

On January 18, 2017, CBP published in the Customs Bulletin a notice of proposed modification and revocation of headquarters' ruling letters relating to U.S. Customs and Border Protection's ("CBP") application of the coastwise laws to certain merchandise and vessel equipment that are transported between coastwise points. The notice of proposal was published in the Customs Bulletin on January 18, 2017, with comments due on or before February 17, 2017.

*Extension of Comment Period*

CBP believes that it is important to have as much public participation as possible in considering this proposal. Therefore, CBP has decided to allow additional time for the public to submit comments on the proposed actions. Accordingly, the comment period is extended to April 18, 2017. CBP is also seeking comments on whether a further extension of the comment period, beyond April 18, 2017, is warranted. CBP notes that the email address for submission of comments set forth in the January 18 notice is incorrect; the correct address is provided herein.

Dated: February 2, 2017.

GLEN E. VEREB  
*Director*  
*Border Security and*  
*Trade Compliance Division*

◆◆◆◆◆

**DATES AND DRAFT AGENDA OF THE FIFTY-NINTH  
SESSION OF THE HARMONIZED SYSTEM COMMITTEE OF  
THE WORLD CUSTOMS ORGANIZATION**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security, and U.S. International Trade Commission.

**ACTION:** Publication of the dates and draft agenda for the fifty-ninth session of the Harmonized System Committee of the World Customs Organization.

**SUMMARY:** This notice sets forth the dates and draft agenda for the next session of the Harmonized System Committee of the World Customs Organization.

**DATES:** Jan. 17, 2017

**FOR FURTHER INFORMATION CONTACT:** Joan A. Jackson, Paralegal Specialist, Tariff Classification and Marking Branch, U.S. Customs and Border Protection (202-325-0010), or Dan Shepherdson, Attorney Advisor, Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission (202-205-2598).

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

The United States is a contracting party to the International Convention on the Harmonized Commodity Description and Coding System (“Harmonized System Convention”). The Harmonized Commod-

ity Description and Coding System (“Harmonized System”), an international nomenclature system, forms the core of the U.S. tariff, the Harmonized Tariff Schedule of the United States. The Harmonized System Convention is under the jurisdiction of the World Customs Organization (established as the Customs Cooperation Council).

Article 6 of the Harmonized System Convention establishes a Harmonized System Committee (“HSC”). The HSC is composed of representatives from each of the contracting parties to the Harmonized System Convention. The HSC’s responsibilities include issuing classification decisions on the interpretation of the Harmonized System. Those decisions may take the form of published tariff classification opinions concerning the classification of an article under the Harmonized System or amendments to the Explanatory Notes to the Harmonized System. The HSC also considers amendments to the legal text of the Harmonized System. The HSC meets twice a year in Brussels, Belgium. The next session of the HSC will be the fifty-ninth and it will be held from March 15, 2017 to March 24, 2017.

In accordance with section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), the Department of Homeland Security, represented by U.S. Customs and Border Protection, the Department of Commerce, represented by the Census Bureau, and the U.S. International Trade Commission (“ITC”), jointly represent the U.S. The Customs and Border Protection representative serves as the head of the delegation at the sessions of the HSC.

Set forth below is the draft agenda for the next session of the HSC. Copies of available agenda-item documents may be obtained from either Customs and Border Protection or the ITC. Comments on agenda items may be directed to the above-listed individuals.

IEVA K. O’ROURKE,  
*Chief*

*Tariff Classification and Marking Branch*

Attachment





WORLD CUSTOMS ORGANIZATION  
 ORGANISATION MONDIALE DES DOUANES  
 Established in 1952 as the Customs Co-operation Council  
 Créée en 1952 sous le nom de Conseil de coopération douanière

HARMONIZED SYSTEM  
 COMMITTEE

NC2306E1a

-  
 59<sup>th</sup> Session

O. Fr.

Brussels, 12 January 2017.

DRAFT AGENDA FOR THE 59TH SESSION  
 OF THE HARMONIZED SYSTEM COMMITTEE

From : Wednesday 15 March 2017 (**10.00 a.m.**)

To : Friday 24 March 2017

**N.B.** : From Monday 13 March 2017 (9.30 a.m.) to Tuesday 14 March 2017: Pre-session Working Party (to examine the questions under **Agenda Item VI**)

Wednesday 15 March 2017 (**10.00 a.m.**): Adoption of the Report of the 51st Session of the HS Review Sub-Committee

I. ADOPTION OF THE AGENDA

- |                    |                |
|--------------------|----------------|
| 1. Draft Agenda    | <b>NC2306E</b> |
| 2. Draft Timetable | <b>NC2307B</b> |

II. REPORT BY THE SECRETARIAT

- |                                                                                                                                                                                  |                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| 1. Position regarding Contracting Parties to the HS Convention, HS Recommendations and related matters; progress report on the implementation of HS 2017 - status and challenges | NC2308E                          |
| 2. Report on the last meeting of the Policy Commission (76th Session)                                                                                                            | NC2309E                          |
| 3. Approval of decisions taken by the Harmonized System Committee at its 58th Session                                                                                            | <b>NG0232E</b><br><b>NC2305E</b> |
| 4. Capacity building activities of the Nomenclature and Classification Sub-Directorate                                                                                           | NC2310E                          |
| 5. Co-operation with other international organizations                                                                                                                           | NC2311E                          |
| 6. New information provided on the WCO Web site                                                                                                                                  | NC2312E                          |
| 7. Other                                                                                                                                                                         |                                  |

III. GENERAL QUESTIONS

- |                                                                                                                                                                                                                                      |         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1. Procedure for the adoption of the Committee's Reports                                                                                                                                                                             | NC2313E |
| 2. Re-opening the examination of possible amendment of Article 8 of the HS Convention with a view to speeding up the decision-making process for the HS Committee by limiting the number of reservations in respect of its decisions | NC2314E |

- |     |                                                                                                                                                                                                              |                    |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 3.  | Draft corrigendum amends to the Compendium of Classification Opinions                                                                                                                                        | NC2315E            |
| 4.  | Draft corrigendum amendments to the Explanatory Notes                                                                                                                                                        | NC2316E            |
| IV. | <u>REPORT OF THE SCIENTIFIC SUB-COMMITTEE</u>                                                                                                                                                                |                    |
| 1.  | Report of the 32nd Session of the Scientific Sub-Committee                                                                                                                                                   | NS0391E            |
| 2.  | Matters for decision                                                                                                                                                                                         | NC2317E            |
| 3.  | Classification of “arachidonic acid oil” (Request by China)                                                                                                                                                  | NC2318E            |
| 4.  | Classification of a product referred to as “Crab flavour” (Request by the Russian Federation)                                                                                                                | NC2319E            |
| 5.  | Possible amendment to the Explanatory Note to heading 27.10 (Classification of the three products presented by the Russian Federation at the 31st Session of the SSC)                                        | NC2320E            |
| 6.  | Possible amendment of the Explanatory Notes to headings 13.02 and 20.09                                                                                                                                      | NC2321E            |
| 7.  | Classification of “bilberry and bergamot extracts” (Request by the United States)                                                                                                                            | NC2322E            |
| 8.  | Classification of “instant photoresists” used in the manufacture of semiconductor materials (Request by the United States)                                                                                   | NC2323E            |
| 9.  | Classification of blanched green shell mussels ( <i>Perna canaliculus</i> ) (Request by the Secretariat)                                                                                                     | NC2324E            |
| 10. | Classification of two products called “Ammonium Nitrate Emulsion Grade (AN-E)” and “Ammonium Nitrate Porous Prill (ANPP)” (Request by Burkina Faso)                                                          | NC2325E            |
| V.  | <u>REPORT OF THE HS REVIEW SUB-COMMITTEE</u>                                                                                                                                                                 |                    |
| 1.  | Report of the 51st Session of the HS Review Sub-Committee                                                                                                                                                    | NR1152E            |
| 2.  | Matters for decision                                                                                                                                                                                         | NC2326E            |
| 3.  | Classification of carbon fibres                                                                                                                                                                              | NC2327E            |
| VI. | <u>REPORT OF THE PRESESSIONAL WORKING PARTY</u>                                                                                                                                                              |                    |
| 1.  | Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify pepper seeds of the genus <i>Capsicum</i> , for sowing, in heading 12.09 (subheading 1209.91)            | NC2328E<br>Annex A |
| 2.  | Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a product called “chilli stew containing dark chocolate and cocoa” in heading 16.02 (subheading 1602.50) | NC2328E<br>Annex B |

3. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a product called [REDACTED], in heading 17.04 (subheading 1704.90) NC2328E  
Annex C
4. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify certain confectionery and plastic articles, of the brand [REDACTED], in heading 18.06 (subheading 1806.90) (Products 2 and 3) and heading 95.03 (HS code 9503.00) (Product 1), respectively NC2328E  
Annex D
5. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify certain herbal preparations and mixtures (Products (A) and (B)) in heading 21.06 (subheading 2106.90) NC2328E  
Annex E
6. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify ceramic inks for inkjet technology in heading 32.07 (subheading 3207.10) NC2328E  
Annex F
7. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a product called [REDACTED], in heading 54.07 (subheading 5407.20) NC2328E  
Annex G
8. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify two “women’s garments designed to cover the upper part of the body” (Products 2 and 3) in heading 61.09 (subheading 6109.10) and heading 61.10 (subheading 6110.30) respectively NC2328E  
Annex H
9. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify certain outdoor cabinets in heading 84.18 (subheading 8418.69) NC2328E  
Annex IJ
10. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify two types of silos in heading 84.79 (subheading 8479.89) NC2328E  
Annex K
11. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify certain “needle roller bearings” (Products A and B) in heading 84.82 (subheading 8482.40) NC2328E  
Annex L
12. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a “Hall Element Device” in heading 85.43 (subheading 8543. 70) NC2328E  
Annex M

- |                                                                                                                                                                                                                   |                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 13. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a tube bundle container in heading 86.09 (HS code 8609.00)                                                | NC2328E<br>Annex N |
| 14. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify an electric hoverboard in heading 87.11 (subheading 8711.60)                                              | NC2328E<br>Annex O |
| 15. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify two types of “ [REDACTED] floating structures” in heading 89.07 (subheading 8907.90)                      | NC2328E<br>Annex P |
| 16. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify certain titanium screws for medical applications (Products 1 and 2) in heading 90.21 (subheading 9021.10) | NC2328E<br>Annex Q |
| 17. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify “seat covers for motor vehicles” in heading 94.01 (subheading 9401.90)                                    | NC2328E<br>Annex R |
| 18. Possible amendment of the Explanatory Note to heading 94.01 to clarify the classification of “seat covers for motor vehicles”                                                                                 | NC2328E<br>Annex S |
| 19. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify easels (e.g., for blackboards or paintings) in heading 94.03 (subheading 9403.60)                         | NC2328E<br>Annex T |
| 20. Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify certain virtual reality headsets (Product B) in heading 95.04 (subheading 9504.50)                        | NC2328E<br>Annex U |

#### VII. REQUESTS FOR RE-EXAMINATION (RESERVATIONS)

- |                                                                                                                      |         |
|----------------------------------------------------------------------------------------------------------------------|---------|
| 1. Re-examination of the classification of a tabletop easel (Product 4) (Requests by Switzerland, Norway and the EU) | NC2329E |
| 2. Re-examination of the classification of a dairy product called “ [REDACTED] ” (Request by Switzerland)            | NC2330E |
| 3. R-examination of the classification of a virtual reality headset, model “ [REDACTED] ” (Request by Korea)         | NC2331E |

#### VIII. FURTHER STUDIES

- |                                                                                                                    |         |
|--------------------------------------------------------------------------------------------------------------------|---------|
| 1. Classification of certain skipping ropes for sports activities and fitness classes (Request by the Secretariat) | NC2332E |
|--------------------------------------------------------------------------------------------------------------------|---------|

- |    |                                                                                                |                             |
|----|------------------------------------------------------------------------------------------------|-----------------------------|
| 2. | Classification of certain herbal preparations and mixtures (Product (C)) (Request by Japan)    | NC2333E                     |
| 3. | Classification of an Insulated Gate Bipolar Transistor (IGBT) module (Request by Korea)        | NC2334E                     |
| 4. | Classification of devices called “ [REDACTED] ” and “Ultrasonic Washer” (Request by Indonesia) | <b>NC2298E<br/>(HSC/58)</b> |
| 5. | Classification of a “medicated bone graft substitute called [REDACTED]” (Request by Brazil)    | <b>NC2300E<br/>(HSC/58)</b> |

IX. NEW QUESTIONS

- |     |                                                                                                                                                                           |         |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1.  | Classification of a tobacco product called “ [REDACTED] ” (Request by the Secretariat)                                                                                    | NC2335E |
| 2.  | Classification of 3D printers (Request by the Secretariat)                                                                                                                | NC2336E |
| 3.  | Classification of certain types of paddles and stand up paddleboards (SUPs), used for sports activities (Request by Brazil)                                               | NC2337E |
| 4.  | Classification of rapid diagnostic test kits for detecting the Zika virus and other diseases transmitted by mosquitoes of the <i>Aedes</i> genus (Request by Brazil)      | NC2338E |
| 5.  | Possible amendment to the Compendium of Classification Opinions to reflect the decision to classify a selfie stick in heading 96.20 (HS code 9620.00) (Request by Brazil) | NC2339E |
| 6.  | Classification of a product called “ [REDACTED] ” (Request by Ecuador)                                                                                                    | NC2340E |
| 7.  | Classification of a product called “Crude Palm Fatty Acid” (Request by Sri Lanka)                                                                                         | NC2341E |
| 8.  | Classification of extract of konjac tuber ( <i>Amorphophallus konjac</i> ) containing glucomannan (Request by the EU)                                                     | NC2342E |
| 9.  | Classification of a product based on ilmenite ore ground into a fine powder (Request by Norway)                                                                           | NC2343E |
| 10. | Classification of two products called “ [REDACTED] ” and “ [REDACTED] ” (Request by Norway)                                                                               | NC2344E |
| 11. | Classification of frozen boneless mutton fat trimmings (Request by South Africa)                                                                                          | NC2345E |
| 12. | Classification of a laminated textile fabric for making jackets (Request by Norway)                                                                                       | NC2346E |
| 13. | Classification of gloves made from laminated textile fabric (Request by the Secretariat)                                                                                  | NC2347E |
| 14. | Classification of unassembled bicycle parts (Request by South Africa)                                                                                                     | NC2348E |
| 15. | Classification of a product called “ [REDACTED] ” (Request by Norway)                                                                                                     | NC2349E |
| 16. | Classification of silica fume, also called “ [REDACTED] ” (Request by Norway)                                                                                             | NC2350E |

X. ADDITIONAL LIST

XI. OTHER BUSINESS

1. List of questions which might be examined at a future session

NC2351E

XII. ELECTIONSXIII. DATES OF NEXT SESSIONS