

U.S. Customs Service

General Notices

GRANT OF “LEVER-RULE” PROTECTION

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

ACTION: Notice of grant of “Lever-Rule” protection.

SUMMARY: Pursuant to 19 CFR §133.2(f), this notice advises interested parties that Customs has granted “Lever-Rule” protection to *Recot, Inc.* for certain packages of its “*Ruffles*”, “*Fritos*”, and “*Tostitos*” products.

FOR FURTHER INFORMATION CONTACT: George F. McCray, Esq., Intellectual Property Rights Branch, Office of Regulations & Rulings, (202) 572-8707.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to 19 CFR §133.2(f), this notice advises interested parties that Customs has granted “Lever-Rule” protection with regard to the following products:

1) Certain packages of “*RUFFLES*” potato chips contained within 85 gram green bags bearing the *RUFFLES* (U.S. Patent & Trademark Office Registration No. 582,149; U.S. Customs Recordation No. TMK02-00045), *SMILING FACE DEVICE (SLANTED)-NO. 2* (U.S. Patent & Trademark Office Registration No. 2,285,979; U.S. Customs Recordation No. TMK01-00122), and *SABRITAS* (U.S. Patent & Trademark Office Registration No. 739,115; U.S. Customs Recordation No. TMK01-00110) trademarks.

2) Certain packages of “*FRITOS*” corn chips contained within 150 gram orange and yellow bags bearing the *FRITOS* (U.S. Patent & Trademark Office Registration No. 689,601; U.S. Customs Recordation No. TMK01-00117); *SMILING FACE DEVICE (SLANTED)-NO. 2* (U.S. Patent & Trademark Office Registration No. 2,285,979; U.S. Customs Recordation No. TMK01-00122), and *SABRITAS* (U.S. Patent & Trademark Office Registration No. 739,115; U.S. Customs Recordation No. TMK01-00110) trademarks.

3) Certain packages of “*TOSTITOS 100% WHITE CORN CRISPY ROUNDS*” tortilla chips contained within 170 gram white and red bags bearing the *TOSTITOS* (U.S. Patent & Trademark Office Registration No. 1,100,909; U.S. Customs Recordation No.

TMK01-00124); and SABRITAS (U.S. Patent & Trademark Office Registration No. 739,115; U.S. Customs Recordation No. TMK01-00110) trademarks.

Customs has determined that the aforementioned gray market products differ materially physically from the Recot, Inc. products authorized for sale in the U.S. in that they feature differences including: inaccurate “freshness date” information, different colored packaging, omitted promotional information, misspelled words, and insufficient English language data.

In *Iberia Foods Corp. v. Roland Romeo, Jr.*, 150 F.3d 298 (3d Cir. 1998) the Third Federal Circuit noted that characteristics of gray market goods that are not shared by the trademark owner’s goods are likely to affect consumers’ perceptions regarding the desirability of the goods. The gray market goods under consideration herein feature differences including: inaccurate “freshness date” information, different colored packaging, omitted promotional information, misspelled words, and insufficient English language data. These sorts of differences are likely to affect a consumer’s perceptions regarding the desirability of those goods.

In the Eleventh circuit case of *Davidoff & CIE v. PLD Int’l Corp.* 263 F.3d 1297 (11th Cir. 2001), a similar view was expressed. There the court defined a material difference as one that consumers consider relevant to a decision about whether to purchase a product. The court found that physical differences (i.e. etching fragrance bottles to remove batch codes) were material because consumers may conclude that the product has been tampered with. Under that rationale, it is likely that consumers would consider the sorts of differences under consideration herein relevant to their decision about whether to purchase the product in that the product may appear to have been tampered with.

Additionally, the First Federal Circuit has held that use of different languages on product labeling constitutes a material difference. *Societe Des Produits Nestle, S.A. v. Casa Helvetia, Inc.* 982 F.2d 633 (1st Cir. 1992); see also *Ferrero U.S.A., Inc. v. Ozak Trading, Inc.*, 753 F. Supp. 1240 (D.N.J.), aff’d 935 F.2d 1281 (3d Cir. 1991) (unauthorized product differed materially because, *inter alia*, its labels did not contain information indicating number of servings per container or nutritional information, and because it used foreign variants of words displayed on the authorized product’s label).

ENFORCEMENT

Importation of the subject gray market “RUFFLES”, “FRITOS” and “TOSTITOS” products discussed herein is restricted, unless the labeling requirements of 19 CFR §133.23(b) are satisfied.

Dated: January 30, 2003.

JOANNE ROMAN STUMP
Chief, Intellectual Property Rights Branch,
Office of Regulations & Rulings.

NOTICE OF CANCELLATION OF CUSTOMS BROKER PERMIT

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

ACTION: General notice.

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

<i>Name</i>	<i>Permit No.</i>	<i>Issuing Port</i>
Yamato Customs Brokers USA, Inc.	39-580	Chicago
Yamato Customs Brokers USA, Inc.	9198-P	San Francisco
Yamato Customs Brokers USA, Inc.	888	New York
Yamato Customs Brokers USA, Inc.	94-17-045	Atlanta
Yamato Customs Brokers USA, Inc.	1270	Los Angeles
Yamato Customs Brokers USA, Inc.	097	Seattle
Yamato Customs Brokers USA, Inc.	(no number)	Detroit
All Nations Forwarding Import Co., Inc.	6532	Los Angeles
James W. Ghedi	53-87002	Houston

Dated: January 22, 2003.

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

[Published in the Federal Register, February 6, 2003 (68 FR 6258)]

PROPOSED COLLECTION; COMMENT REQUEST

GENERAL DECLARATION (OUTWARD/INWARD)

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the General Declaration (Outward/Inward). 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: General Declaration (Outward/Inward)

OMB Number: 1515-0002

Form Number: Customs Form 7507

Abstract: Customs Form 7507 allows the agent or pilot to make entry or exit of the aircraft, as required by statute. The form is used to document clearance by the arriving aircraft at the required inspectional facilities and inspections by appropriate regulatory agency staffs

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 500

Estimated Time Per Respondent: 90 minutes

Estimated Total Annual Burden Hours: 49,950

Estimated Total Annualized Cost on the Public: \$1,874,250

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

PROPOSED COLLECTION; COMMENT REQUEST

IMPORTERS OF MERCHANDISE SUBJECT TO ACTUAL USE PROVISIONS

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Importer's of Merchandise Subject to Actual Use Provisions. 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Importers of Merchandise Subject to Actual Use Provisions

OMB Number: 1515-0091

Form Number: None

Abstract: The Importers of Merchandise Subject to Actual Use Provision is part of the regulation which provides that certain items may be admitted duty-free such as farming implements, seed, potatoes etc., providing the importer can proved these items were actually used as con-

templated by law. The importer must maintain detailed records and furnish a statement of use.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Individuals, Businesses.

Estimated Number of Respondents: 12,000

Estimated Time Per Respondent: 60 minutes

Estimated Total Annual Burden Hours: 12,000

Estimated Total Annualized Cost on the Public: N/A

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, February 4, 2003 (68 FR 5700)]

PROPOSED COLLECTION; COMMENT REQUEST

LIEN NOTICE (CUSTOMS FORM 3485)

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Lien Notice (Customs Form 3485). 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Lien Notice

OMB Number: 1515-0046

Form Number: Customs Form 3485

Abstract: The Lien Notice, Customs Form 3485, enable the carriers, cartmen, and similar businesses to notify Customs that a lien exists against an individual/business for non-payment of freight charges, etc., so that Customs will not permit delivery of the merchandise from public stores or a bonded warehouse until the lien is satisfied or discharged.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Individuals, businesses.

Estimated Number of Respondents: 2,000

Estimated Time Per Respondent: 5 minutes

Estimated Total Annual Burden Hours: 8,497

Estimated Total Annualized Cost on the Public: N/A

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

PROPOSED COLLECTION; COMMENT REQUEST

COUNTRY OF ORIGIN MARKING REQUIREMENTS FOR CONTAINERS OR HOLDERS

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

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Country of Origin Marking Requirements for Containers or Holders. 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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 Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Country of Origin Marking Requirements for Containers or Holders

OMB Number: 1515-0163

Form Number: N/A

Abstract: Containers or Holders imported into the United States destined for an ultimate purchaser must be marked with the English name of the country of origin at the time of importation into Customs territory.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 250

Estimated Time Per Respondent: 15 seconds

Estimated Total Annual Burden Hours: 41

Estimated Total Annualized Cost on the Public: \$533.00

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, February 4, 2003 (68 FR 5699)]

PROPOSED COLLECTION; COMMENT REQUEST

CUSTOMS MODERNIZATION ACT RECORDKEEPING REQUIREMENTS

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Customs Modernization Act Recordkeeping Requirements. 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: 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) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Customs Modernization Act Recordkeeping Requirements

OMB Number: 1515-0214

Form Number: N/A

Abstract: This information and records keeping requirement is required to allow Customs to verify the accuracy of the claims made on the entry documents regarding the tariff status of imported merchandise, admissibility, classification/nomenclature, value and rate of duty applicable to the entered goods.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 9,114

Estimated Time Per Respondent: 875 hours

Estimated Total Annual Burden Hours: 7,977,600

Estimated Total Annualized Cost on the Public: N/A

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

PROPOSED COLLECTION; COMMENT REQUEST

DECLARATION OF PERSON WHO PERFORMED REPAIRS

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration of a Person Who Performed Repairs. 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Declaration of Person Who Performed Repairs

OMB Number: 1515-0137

Form Number: None

Abstract: The Declaration of Person Who Performed Repairs is used by Customs to ensure duty-free status for entries covering articles repaired aboard. It must be filed by importers claiming duty-free status.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)
Affected Public: Businesses or other for-profit.
Estimated Number of Respondents: 20,472
Estimated Time Per Respondent: 30 minutes
Estimated Total Annual Burden Hours: 10,236
Estimated Total Annualized Cost on the Public: N/A

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, February 4, 2003 (68 FR 5695)]

PROPOSED COLLECTION; COMMENT REQUEST

REQUIRED RECORDS FOR SMELTING AND REFINING WAREHOUSES

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Required Records for Smelting and Refining Warehouses. 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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 Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Required Records for Smelting and Refining Warehouses

OMB Number: 1515-0135

Form Number: N/A

Abstract: Each manufacturer engaged in smelting or refining must file an annual statement showing any material change in the character of the metal-bearing materials used or changes in the method of smelting or refining. Also the records must show the receipt and disposition of each shipment.

Current Actions: There are no changes to the information collection.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 15

Estimated Time Per Respondent: 10.4

Estimated Total Annual Burden Hours: 156 hours

Estimated Total Annualized Cost on the Public: \$1,872.00

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, February 4, 2003 (68 FR 5698)]

PROPOSED COLLECTION; COMMENT REQUEST

APPLICATION AND APPROVAL TO MANIPULATE, EXAMINE, SAMPLE, OR TRANSFER GOODS

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application and Approval to Manipulate, Examine, Sample, or Transfer Goods. 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to Tracey Denning, U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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 Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application & Approval to Manipulate, Examine, Sample, or Transfer Goods

OMB Number: 1515-0021

Form Number: Customs Form 3499

Abstract: Customs Form 3499 is prepared by importers or consignees as an application to request examination, sampling, or transfer of merchandise under Customs supervision. This form is also an application for the manipulation of merchandise in a bonded warehouse and abandonment or destruction of merchandise.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions and individuals

Estimated Number of Respondents: 137,400

Estimated Time Per Respondent: 6 minutes

Estimated Total Annual Burden Hours: 13,740

Estimated Total Annualized Cost on the Public: \$109,920

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, February 4, 2003 (68 FR 5697)]

PROPOSED COLLECTION; COMMENT REQUEST

BONDED WAREHOUSE PROPRIETOR'S SUBMISSION

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Bonded Warehouse Proprietor's Submission. 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to Tracey Denning, U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey

Denning, Information Services Group, Room 3.2.C., 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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 Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Bonded Warehouse Proprietor's Submission.

OMB Number: 1515-0093

Form Number: Customs Form 300

Abstract: Customs Form 300 is prepared by Bonded Warehouse Proprietor's and submitted to the Customs Service annually. The document reflects all bonded merchandise entered, released, and manipulated, and includes beginning and ending inventories.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 1,800

Estimated Time Per Respondent: 20 hours

Estimated Total Annual Burden Hours: 36,000

Estimated Total Annualized Cost on the Public: \$1,671,813

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

PROPOSED COLLECTION; COMMENT REQUEST

PROOF OF THE USE FOR RATES OF DUTY DEPENDENT ON ACTUAL USE

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Proof of the Use for Rates of Duty Dependent on Actual Use. 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Proof of the Use for Rates of Duty Dependent on Actual Use

OMB Number: 1515-0109

Form Number: None

Abstract: The Proof of the Use for Rates of Duty Dependent on Actual Use declaration is needed to ensure Customs control over merchandise which is duty-free. The declaration shows proof of use and must be submitted within 3 years of the date of entry or withdrawal for consumption.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Individuals, Businesses.

Estimated Number of Respondents: 10,500

Estimated Time Per Respondent: 20 minutes

Estimated Total Annual Burden Hours: 3,500

Estimated Total Annualized Cost on the Public: N/A

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, February 4, 2003 (68 FR 5696)]

PROPOSED COLLECTION; COMMENT REQUEST

APPLICATION FOR EXTENSION OF BOND FOR TEMPORARY IMPORTATION

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Extension of Bond for Temporary Importation. 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to Tracey Denning, Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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 Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application for Extension of Bond for Temporary Importation

OMB Number: 1515-0054

Form Number: Customs Form 3173

Abstract: Imported merchandise which is to remain in the U.S. Customs territory for 1-year or less without duty payment is entered as a temporary importation. The importer may apply for an extension of this period on Customs Form 3173.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 1,200

Estimated Time Per Respondent: 14 minutes

Estimated Total Annual Burden Hours: 348

Estimated Total Annualized Cost on the Public: \$5,568

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

PROPOSED COLLECTION; COMMENT REQUEST

DEFERRAL OF DUTY ON LARGE YACHTS IMPORTED FOR SALE

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Deferral of Duty on Large Yachts Imported for Sale. 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 April 7, 2003, to be assured of consideration.

ADDRESS: Direct all written comments to Tracey Denning, Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1429.

SUPPLEMENTARY INFORMATION:

Customs 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: (1) 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 Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Deferral of Duty on Large Yachts Imported for Sale

OMB Number: 1515-0223

Form Number: N/A

Abstract: Section 2406(a) of the Miscellaneous Trade and Technical Corrections Act of 1999 provides that an otherwise dutiable "large

yacht” may be imported without the payment of duty if the yacht is imported with the intention to offer for sale at a boat show in the U.S.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions, and non-profit institutions

Estimated Number of Respondents: 2

Estimated Time Per Respondent: 30 minutes

Estimated Total Annual Burden Hours: 1

Estimated Total Annualized Cost on the Public: \$50.00

Dated: January 27, 2003.

TRACEY DENNING,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, February 4, 2003 (68 FR 5695)]

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, February 5, 2003

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

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

PROPOSED MODIFICATION OF RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO TARIFF
CLASSIFICATION OF PLASTIC CLIPS WITH METAL SPRINGS

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

ACTION: Notice of proposed modification of classification ruling letters and revocation of treatment relating to the classification of plastic clips with metal springs.

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

DATE: Comments must be received on or before March 21, 2003.

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

FOR FURTHER INFORMATION CONTACT: Benjamin J. Bornstein, General Classification Branch, (202) 572-8786.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to modify ruling letters pertaining to the tariff classification of plastic clips. Although in this notice Customs is specifically referring to eight rulings, New York Ruling Letters ("NYs") I86172, dated September 20, 2002; H83785, dated August 10, 2001; H80474 and H80473, dated May 11, 2001; D87503 and B84870, dated February 16, 1999; D82271, dated September 25, 1998; and C86939, dated April 28, 1998, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise the Customs Service during this notice period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States (HTSUS). Any person involved in sub-

stantially identical transactions should advise Customs during this notice period. An importer's failure to advise the Customs Service 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 their agents for importations of merchandise subsequent to this notice.

In the eight New York Rulings cited above, ("Attachments A-H," respectively), Customs determined that certain plastic clips were classifiable in subheading 8308.90.90, HTSUS, as "[c]lasp[s], * * *, of base metal, of a kind used for clothing, footwear, awnings, handbags, travel goods or other madeup articles[.]" Since the issuance of these rulings, Customs has had a chance to review the classification of this merchandise and has determined that these classifications are in error.

It is now Customs position that the subject plastic clips are classifiable in subheading 3926.90.98, HTSUS, which provides for "[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other[.]"

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to modify NYs I86172, H83785, H80474, H80473, D87503, B84870, D82271, and C86939, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letters 966173, 966176, 966180, 966179, 966177, 966178, 966181, and 966182, respectively, (*see* "Attachments I-P," to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: January 30, 2003.

PETER T. LYNCH,
(for Myles B. Harmon, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, September 20, 2002.

CLA-2-95:RR:NC:SP:225 I86172

Category: Classification

Tariff No. 3919.90.5060, 3924.90.5500,
3926.40.0000, 3926.90.9880, 4016.92.0000,
4016.99.3500, 4016.99.6050, 4202.22.1500,
4202.92.4500, 4820.10.2020, 4823.90.6600,
4911.91.4040, 8214.10.0000, 8214.10.0000,
8308.90.9000, 9017.80.0000, 9502.10.0060,
9502.91.0000, 9603.29.4010, 9609.10.0000,
9615.11.1000, 9615.11.3000, and 9615.11.4000

MS. JENNY DAVENPORT
WALMART STORES, INC.
Mail Stop #0410-L-32
601 N. Walton
Bentonville, AR 72716-0410

Re: The tariff classification of articles contained in two designs of a "12 inch hair play doll set" from China and a pencil from Taiwan.

DEAR MS. DAVENPORT:

In your letter dated September 9, 2002, you requested a tariff classification ruling.

You submitted samples of two designs of Style #20136, "12 inch hair play doll set." Sample "A" consists of a 12" plastic non-stuffed doll dressed in a pink jumper, pink shoes, and a pink headband, 1 brush, 1 comb, 1 plastic mirror, 1 child's handbag of opaque polyvinyl chloride (PVC) sheeting of plastic, which is unlined, has a snap flap, and faux fur handle, 2 barrettes, 3 plastic clips with teeth with different colored attached hair, 6 plastic hair clips with teeth (3 butterfly, 3 regular), rubber bands, 10 plastic clips, plastic puffy heart shaped 3-dimensional stickers, and convex-shaped 3-dimensional plastic printed stickers with designs. Sample "B" consists of a 12" plastic non-stuffed doll dressed in purple blouse, purple overalls, purple hat, and white shoes, 1 brush, 1 plastic mirror, 1 plastic necklace sized for the doll, 1 4" plastic toy backpack for the doll, 1 "pencil case" that is actually a utility pouch of clear polyvinyl chloride (PVC) of plastic, 1 eraser, 1 ruler, 1 pencil sharpener, 1 notebook, 1 plastic clip with metal spring, convex-shaped 3-dimensional plastic printed stickers with designs, solid colored pressure sensitive heart-shaped and cog-shaped paper stickers, flat heart-shaped pressure sensitive plastic stickers, and flat pressure sensitive plastic stickers in the shapes of clothing accessories.

Although packaged as sets, the two samples are not sets for Customs' purposes. The Explanatory Notes to the Harmonized Tariff System provide guidance in the interpretation of the Harmonized Commodity Description and Coding System at the international level. Explanatory Note X to GRI 3(b) provides that the term "goods put up in sets for retail sale" means goods that: (a) consist of at least two 2 different articles which are, prima facie, classifiable in different headings; (b) consist of articles put up together to meet a particular need or carry out a specific activity; and (c) are put up in a manner suitable for sale directly to users without repacking.

The two samples of Style #20136, "12 inch hair play doll set", are not considered to be sets for tariff classification purposes since the components are not put up together to meet a particular need or carry out a specific activity. Some of the articles are for use with the doll. Many of the articles are for use with the doll and have a secondary use for the child. However, some of the articles are not for use with the doll, but are for the child only. Therefore, the contents must be classified separately as the goods are not for one use only.

The applicable subheading for the flat pressure sensitive plastic stickers in the shapes of clothing accessories and the flat heart-shaped pressure sensitive plastic stickers of Sample B will be 3919.90.5060, Harmonized Tariff Schedule of the United States (HTS), which provides for self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics * * * other * * * other. The rate of duty will be 5.8 percent ad valorem.

The applicable subheading for the plastic mirrors of Sample A and Sample B will be 3924.90.5500, HTS, which provides for "Tableware, kitchenware, other household ar-

articles and toilet articles, of plastics: Other: Other.” The rate of duty will be 3.4% ad valorem.

The applicable subheading for the plastic heart-shaped 3-dimensional puffy stickers of Sample A will be 3926.40.0000, HTS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Statuettes and other ornamental articles.” The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the rubber bands of Sample B if made of plastic, not rubber, will be 3926.90.9880, HTS, which provides for other articles of plastics, other. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the eraser of Sample B will be 4016.92.0000, HTS, which provides for “Other articles of vulcanized rubber other than hard rubber: Erasers. The rate of duty will be 4.2 percent ad valorem.

The applicable subheading for the rubber bands of Sample B if made of natural rubber will be 4016.99.3500, HTS, which provides for “Other articles of vulcanized rubber other than hard rubber: other: of natural rubber: other.” The rate of duty will be free.

The applicable subheading for the rubber bands of Sample B if made of synthetic rubber will be 4016.99.6050, HTS, which provides for “Other articles of vulcanized rubber other than hard rubber: other: other.” The rate of duty will be 2.5 percent ad valorem.

The applicable subheading for the child’s handbag of Sample A will be 4202.22.1500, HTS, which provides, in part, for handbags, whether or not with shoulder strap, including those without handle, with outer surface of sheeting of plastic. The rate of duty will be 16.8 per cent.

The applicable subheading for the pencil case of Sample B will be 4202.92.4500, HTS, which provides for “Travel, sports and similar bags: With outer surface of sheeting of plastic or of textile materials: Other.” The rate of duty will be 20 percent ad valorem.

The applicable subheading for the notebook of Sample B will be 4820.10.2020, HTS, which provides for “Memorandum pads, letter pads and similar articles of paper or paperboard.” The rate of duty will be 0.8 percent ad valorem.

The applicable subheading for the solid colored pressure sensitive paper heart-shaped and cog-shaped stickers of Sample B will be 4823.90.6600, HTS, which provides for other (non-enumerated) articles of coated paper or paperboard. The rate of duty will be 1.1%.

The applicable subheading for the convex shaped 3-dimensional plastic printed stickers with designs of Sample A and Sample B will be 4911.91.4040, HTS, which provides for other (than certain enumerated) printed pictures, designs and photographs. The rate of duty will be 0.6%.

The applicable subheading for pencil sharpener of Sample B will be 8214.10.0000, HTS, which provides for “Paper knives, letter openers, erasing knives, pencil sharpeners (non-mechanical) and blades and other parts thereof.” The rate of duty will be 0.3 cents each plus 4.2% ad valorem.

The applicable subheading for the plastic clip with metal spring of Sample B will be 8308.90.9000, HTS, which provides for “Clasps, frames with clasps, buckles, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used in clothing, footwear, awnings, handbags, travel goods or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal: other including parts: other.” The rate of duty will be 2.7% ad valorem.

The applicable subheading for the ruler of Sample B will be 9017.80.0000, HTS, which provides for “Other” instruments for measuring length, for use in the hand. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the plastic non-stuffed dolls of Sample A and Sample B will be 9502.10.0060, HTS, which provides for “Dolls representing only human beings and parts and accessories thereof: Dolls, whether or not dressed * * * Other.” The rate of duty will be free.

The applicable subheading for the doll’s necklace and backpack of Sample B will be 9502.91.0000, HTS, which provides for “Dolls representing only human beings and parts and accessories thereof: Parts and accessories: Garments and accessories thereof, footwear and headgear.” The rate of duty will be free.

The applicable subheading for the brush of Sample B will be 9603.29.4010, HTS, which provides for hairbrushes valued not over 40 cents each. The rate of duty will be 0.2 cents each plus 7% ad valorem.

The applicable subheading for the pencil of Sample B will be 9609.10.0000, HTS, which provides for pencils and crayons, with leads encased in a rigid sheath. The rate of duty will be 14 cents per gross plus 4.3 percent ad valorem.

The applicable subheading for the comb of Sample A, if valued not over \$4.50 per gross, will be 9615.11.1000, HTS, which provides for combs, hair-slides and the like: of hard rubber or plastics: combs: valued not over \$4.50 per gross. The rate of duty will be 14.4 cents per gross plus 2% ad valorem.

The applicable subheading for the comb of Sample A, if valued over \$4.50 per gross, will be 9615.11.3000, HTS, which provides for combs, hair-slides and the like: of hard rubber or plastics: combs: valued over \$4.50 per gross: other. The rate of duty will be 28.8 cents per gross plus 4.6% ad valorem.

The applicable subheading for the hair with clips and the plastic hair clips (3 styles) of Sample A will be 9615.11.4000, HTS, which provides for combs, hair slides and the like: of hard rubber or plastics: other: not set with imitation pearls or imitation gemstones. The rate of duty will be 5.3% ad valorem.

We are unable to issue a ruling on the scrunchies and the rubber band strings without a breakdown of their material composition. Should you still wish a ruling on these articles, please resubmit your request pertaining to these articles along with the requested information.

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 Alice Wong at 646-733-3026.

ROBERT B. SWIERUPSKI,

Director,

National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
New York, NY, August 10, 2001.
CLA-2-39:RR:NC:SP:221 H83785
Category: Classification
Tariff No. 3919.10.2030 and 8308.90.9000

MR. DENNIS SHOSTAK
THE PAPER MAGIC GROUP, INC.
100 North Sixth Street, Suite 899C
Minneapolis, MN 55403

Re: The tariff classification of spring clips and self-adhesive tape from China.

DEAR MR. SHOSTAK:

In your letter dated July 12, 2001, you requested a tariff classification ruling.

A sample (Item #6120770) was provided with your letter. The tape and clips are packaged together in a blister pack. The four spring clips each consist of flower-shaped plastic jaws and a metal spring. The essential character is imparted by the metal spring. The self-adhesive plastic tape is imported on a disposable plastic dispenser. The tape is transparent and measures approximately 7/16 inch in width. You did not provide the length in your letter, but the tape is well under 55 meters in length.

The applicable subheading for the tape and its dispenser will be 3919.10.2030, Harmonized Tariff Schedule of the United States (HTS), which provides for self-adhesive plates, sheets, film, tape, foil, strip and other flat shapes, of plastics * * * in rolls of a width not exceeding 20 centimeters * * * transparent tape, not exceeding 55 m in length: not exceeding 5 cm in width. The rate of duty will be 5.8 percent ad valorem.

The applicable subheading for the spring clips will be 8308.90.9000, HTS, which provides for clasps * * * other. The rate of duty will be 2.7 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Joan Mazzola at 212-637-7034.

ROBERT B. SWIERUPSKI,

Director;

National Commodity Specialist Division.

[ATTACHMENT C]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
New York, NY, May 11, 2001.

CLA-2-42:RR:NC:N3:341 H80474
Category: Classification
Tariff No. 4202.92.3020, 3926.10.0000,
3926.10.0000, 4016.99.3500, 4016.99.6050,
8308.90.9000, 4820.10.2020, 9608.20.0000,
3926.90.6550, and 8305.90.3010

MS. LORIANNE ALDINGER
RITE AID CORPORATION
*30 Hunter Lane
Camp Hill, PA 17011*

Re: The tariff classification of backpacks, pads of paper, vinyl coated metal paper clips, plastic clips, plastic clothes pins, plastic rings, rubber bands, plastic clip board, and felt tip pens from China.

DEAR MS. ALDINGER:

In your letter dated April 26, 2001, you requested a ruling on tariff classification.

The samples submitted with your request are identified as "Cordura Dome Back Pack," Rite Aid item #996981. The item will be imported in a boy's style and girl's style. The girl's style is a backpack made of textile material of man-made fibers. There is a zippered main compartment with a zippered pocket on the front exterior that contains a pad of paper, plastic clip board, and two felt tip pens. Each item is to be classified separately, as they are not considered a set.

The boy's style a backpack made of textile material of man-made fibers. The bag features a central compartment and two zippered pockets on the front exterior that are made of clear sheeting of plastic. The inside of the larger pocket contains the following items: a pad of paper, vinyl coated metal paper clips, plastic clips, plastic clothes pins, plastic rings, and rubber bands. Two felt tip pens are placed inside the smaller pocket. Each item is to be classified separately, as they are not considered a set.

The applicable subheading for the backpacks will be 4202.92.3020, Harmonized Tariff Schedule of the United States (HTS), which provides for travel, sports, and similar bags * * * backpacks. The general rate of duty will be 18.3 percent ad valorem.

The applicable subheading for felt tip pens will be 9608.20.0000, HTS, which provides for felt tipped and other porous-tipped pens and markers. The general rate of duty will be 4 percent ad valorem.

The applicable subheading for the plastic clip board and plastic rings will be 3926.10.0000, HTS, which provides for other articles of plastics and articles of other materials of headings 3901 to 3914, office or school supplies. The general rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the pad of paper will be 4820.10.2020, HTS, which provides for memorandum pads, letter pads, and similar articles of paper. The general rate of duty will be 1.2 percent ad valorem.

The applicable subheading for the vinyl covered paperclips will be 8305.90.3010, HTS, which provides for paperclips, and parts thereof, wholly of wire. The general rate of duty will be free.

The applicable subheading for the plastic spring type clothes pins will be 3926.90.6550, HTS, which provides for clothespins, spring type, valued over \$1.70 per gross. The general rate of duty will be 4.2 percent ad valorem.

The applicable subheading for rubber bands (if made of natural rubber) will be 4016.99.3500, HTS, which provides for other articles of vulcanized rubber other than hard rubber * * * of natural rubber, other. The general rate of duty will be free.

The applicable subheading for the rubber bands (if made of synthetic rubber) will be 4016.99.6050, HTS, which provides for other articles of vulcanized rubber other than hard rubber * * * other. The general rate of duty will be 2.5 percent ad valorem.

The applicable subheading for the metal spring clips will be 8308.90.9000, HTS, which provides for clasps, frames with clasps, buckles, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for clothing, footwear, awnings, handbags, travel goods or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal * * * other. The general rate of duty will be 2.7 percent ad valorem.

Items classifiable under HTS subheading 4202.92.3020 fall within textile category designation 670. Based upon international textile trade agreements products of China are currently subject to quota and the requirement of a visa.

The designated textile and apparel categories and their quota and visa status are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information, we suggest that you check, close to the time of shipment, the *U.S. Customs Service Textile Status Report*, an internal issuance of the U.S. Customs Service, which is available at the Customs Web site at www.customs.gov. In addition, the designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected and should also be verified at the time of shipment.

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 Kevin Gorman at 212-637-7091.

ROBERT B. SWIERUPSKI,

Director,

National Commodity Specialist Division.

[ATTACHMENT D]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
New York, NY, May 11, 2001.

CLA-2-42:RR:NC:N3:341 H80473
Category: Classification
Tariff No. 4202.92.3020, 3926.10.0000,
3926.10.0000, 4016.99.3500, 4016.99.6050,
8308.90.9000, 4820.10.2020,
3926.90.6550, and 8305.90.3010

MS. LORIANNE ALDINGER
RITE AID CORPORATION
*30 Hunter Lane
Camp Hill, PA 17011*

Re: The tariff classification of backpacks, a pad of paper, vinyl coated metal paper clips, plastic clips, plastic clothes pins, plastic rings, and rubber bands from China.

DEAR MS. ALDINGER:

In your letter dated April 26, 2001, you requested a ruling on tariff classification.

The samples submitted with your request are identified as "Tween Range Cordura Dome Back Pack," Rite Aid item #996979. The item will be imported in two styles. The

first style "Girl Time" is a backpack made of textile material of man-made fibers. The backpack consists of a central zippered compartment with a zippered pocket on the front exterior and an open mesh pocket on each side of the bag.

The second style "Bubblicious" is a backpack made of textile material of man-made fibers. The bag features a zippered pocket on the front exterior that is made of clear sheeting of plastic. The inside of the pocket contains the following items: a pad of paper, vinyl coated metal paper clips, plastic clips, plastic clothes pins, plastic rings, and rubber bands. Each item is to be classified separately as the backpack and aforementioned items are not considered a set.

The applicable subheading for the backpacks will be 4202.92.3020, Harmonized Tariff Schedule of the United States (HTS), which provides for travel, sports, and similar bags * * * backpacks. The general rate of duty will be 18.3 percent ad valorem.

The following classifications apply to "Bubblicious" only:

The applicable subheading for plastic rings will be 3926.10.0000, HTS, which provides for other articles of plastics and articles of other materials of headings 3901 to 3914, office or school supplies. The general rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the pad of paper will be 4820.10.2020, HTS, which provides for memorandum pads, letter pads, and similar articles of paper. The general rate of duty will be 1.2 percent ad valorem.

The applicable subheading for the vinyl covered paperclips will be 8305.90.3010, HTS, which provides for paperclips, and parts thereof, wholly of wire. The general rate of duty will be free.

The applicable subheading for the plastic spring type clothes pins will be 3926.90.6550, HTS, which provides for clothespins, spring type, valued over \$1.70 per gross. The general rate of duty will be 4.2 percent ad valorem.

The applicable subheading for rubber bands (if made of natural rubber) will be 4016.99.3500, HTS, which provides for other articles of vulcanized rubber other than hard rubber * * * of natural rubber, other. The general rate of duty will be free.

The applicable subheading for the rubber bands (if made of synthetic rubber) will be 4016.99.6050, HTS, which provides for other articles of vulcanized rubber other than hard rubber * * * other. The general rate of duty will be 2.5 percent ad valorem.

The applicable subheading for the metal spring clips will be 8308.90.9000, HTS, which provides for clasps, frames with clasps, buckles, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for clothing, footwear, awnings, handbags, travel goods or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal * * * other. The general rate of duty will be 2.7 percent ad valorem.

Items classifiable under HTS subheading 4202.92.3020 fall within textile category designation 670. Based upon international textile trade agreements products of China are currently subject to quota and the requirement of a visa.

The designated textile and apparel categories and their quota and visa status are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information, we suggest that you check, close to the time of shipment, the *U.S. Customs Service Textile Status Report*, an internal issuance of the U.S. Customs Service, which is available at the Customs Web site at www.customs.gov. In addition, the designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected and should also be verified at the time of shipment.

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 Kevin Gorman at 212-637-7091.

ROBERT B. SWIERUPSKI,

Director,

National Commodity Specialist Division.

[ATTACHMENT E]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, February 16, 1999.

CLA-2-96-RR:NC:MM:113 D87503
Category: Classification
Tariff No. 9609.10.0000, 9017.80.0000,
8308.90.9000, 8214.10.0000, 4911.91.3000,
4820.50.0000, 4202.22.1500, and 3919.90.5060

MR. STEPHEN WONG
OCEANLAND
8054 E. Garvey Ave., #200
Rosemead, CA 91770

Re: The tariff classification of stationery and sticker kits from Taiwan.

DEAR MR. WONG:

In your letter dated January 25, 1999, on behalf of Adorn Gift Company, you requested a tariff classification ruling.

The merchandise consists of a Peanuts Stationery kit and a Curious George Sticker kit. The items in both kits are stored in purses made of a sheeting of plastic. The translucent purses are rectangular-shaped and have a top carry handle and a lock. The Peanut kit contains a pencil with a Snoopy topper, a plastic ruler, a pencil sharpener, an eraser, a plastic clip or clasp with a metal mechanism, and a printed cartoon card all held in a flimsy packer tray inside the purse. The Curious George kit contains pressure sensitive plastic stickers depicting animals and a staple-bound paper album. The album measures approximately 3.5 inches wide by 6.5 inches high. It has 8 pages of release paper on which the self-adhesive stickers will be placed. The purses holding each kit are not of a kind normally sold with such goods and are not specially shaped nor fitted for the contents. For tariff purposes, all items in the kits will be treated individually.

The applicable subheading for the pencil will be 9609.10.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for pencils and crayons with leads encased in a rigid sheath. The rate of duty will be 14 cents per gross (pieces) plus 4.3 percent ad valorem.

The applicable subheading for the ruler will be 9017.80.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for instruments for measuring length, for use in the hand, other instruments. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the clip/clasp will be 8308.90.9000, Harmonized Tariff Schedule of the United States (HTS), which provides for clasps * * * of base metal * * * other. The rate of duty will be 2.7 percent ad valorem.

The applicable subheading for the pencil sharpener will be 8214.10.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for paper knives * * * pencil sharpeners (nonmechanical) and blades and other parts thereof. The rate of duty will be 0.3 cents each plu9 4.2 percent ad valorem.

The applicable subheading for the printed cartoon card will be 4911.91.3000, Harmonized Tariff Schedule of the United States (HTS), which provides for printed lithographs on paper over 0.51 mm, in thickness. The rate of duty will be free.

The applicable subheading for the album will be 4820.50.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for albums for samples or for collections, of paper or paperboard. The rate of duty will be 2 percent ad valorem.

The applicable subheading for the stickers will be 3919.90.5060, Harmonized Tariff Schedule of the United States (HTS), which provides for self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls, other, other, other. The rate of duty will be 5.8 percent ad valorem.

The applicable subheading for the two purses will be 4202.22.1500, Harmonized Tariff Schedule of the United States (HTS), which provides in part for handbags with outer surface of sheeting of plastic. The rate of duty will be 18 percent ad valorem.

We are unable to classify the eraser without additional information. Please provide the name of the polymer or type of rubber that comprises the eraser.

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 James Smyth at 212-637-7008.

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

[ATTACHMENT F]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, February 16, 1999.
CLA-2-83:RR:NC:SP:222 B84870
Category: Classification
Tariff No. 3924.90.5500, 4016.92.0000,
4820.10.2010, 4911.91.2040, 8214.10.0000,
8308.90.0000, 9017.80.0000, and 9609.10.0000

MS. LAUREN E. HONG
THE DISNEY STORE, INC.
101 North Brand Blvd. Suite 1000
Glendale, CA 91203-2671

Re: The tariff classification of a stationery box from Taiwan.

DEAR MS. HONG:

In your letter dated May 1, 1997, you requested a tariff classification ruling.

The submitted sample is a stationery box style "Pooh", made of hard plastic. This box has a lid with a small rectangular opening and a handle. The plastic box measures approximately 4½ inches long, approximately 3½ inches wide and approximately 2½ inches in height. The stationery box has a lock and key made of plastic. The key is attached to the lock with an elastic band. The rectangular opening allows the box, when empty, to be used as a coin bank.

Inside the box there are 3 colored pencils, 1 plastic ruler, 1 (hand held) plastic pencil sharpener, 1 eraser made of rubber, 1 plastic clip with metal spring mechanism, 1 sheet of printed stickers and 1 small address book.

Your sample is returned as you requested.

This stationery box with its contents is not considered a set for tariff purposes. Even though the whole grouping is put up together for retail sale, these items serve several different purposes and are classifiable separately.

The applicable subheading for the plastic box will be 3924.90.5500 Harmonized Tariff Schedule of the United States (HTS), which provides for * * * other household articles and toilet articles (of plastic), other. The rate of duty will be 3.4 percent ad valorem.

The applicable subheading for the rubber eraser will be 4016.92.0000, HTS, which provides for other articles of vulcanized rubber other than hard rubber. The rate of duty will be 4.2 percent ad valorem.

The applicable subheading for the address book will be 4820.10.2010, HTS, which provides for diaries, notebooks and address books, bound: memorandum, pads, letter pads and similar articles. The rate of duty will be 2 percent ad valorem.

The applicable subheading for the printed stickers will be 4911.91.2040, HTS, which provides for other printed matter, including printed pictures and photographs: other: other, other. The rate of duty will be 6.6 cents per kilogram.

The applicable subheading for the hand held pencil sharpener will be 8214.10.0000, HTS, which provides for other articles of cutlery * * * paper knives, letter openers, erasing knives, pencil sharpeners (nonmechanical) and blades and other parts thereof. The rate of duty will be 0.3 cents each plus 4.2 percent ad valorem.

The applicable subheading for the memo clip will be 8308.90.9000, HTS, which provides for clasps, frames with clasps * * * of base metal, of a kind used for clothing * * * or other made up articles * * * other, other. The rate of duty will be 2.7 percent ad valorem.

The applicable subheading for the plastic ruler will be 9017.80.0000, HIS, which provides for drawing, marking-out or mathematical calculating instrument * * * instruments for measuring length, for use in the hand * * * not specified or included elsewhere in this chapter; parts and accessories thereof: other. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the color pencils will be 9609.10.0000, HTS, which provides for pencils (other than those pencils of heading 9608), * * * pencils and crayons, with leads encased in a rigid sheath. The rate of duty will be 14 cents per gross plus 4.3 percent ad valorem.

You also requested information on the proper marking of the stationery box style Pooh.

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 legible, 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.

As provided in section 134.41 (b), Customs Regulations (19 C.F.R. §134.41(b)), the country of origin marking is considered conspicuous if the ultimate purchaser in the U.S. is able to find the marking easily and read it without strain.

With regard to the permanency of a marking, section 134.41(a), Customs Regulations (19 C.F.R. §134.41 (a)), provides that as a general rule marking requirements are best met by marking worked into the article at the time of manufacture. For example, it is suggested that the country of origin on metal articles be die sunk, molded in, or etched. However, section 134.44, Customs Regulations (19 C.F.R. 5134.44), generally provides that *any* marking that is sufficiently permanent so that it will remain on the article until it reaches the ultimate purchaser unless deliberately removed is acceptable.

Since the country of origin marking on each piece will not be visible to the consumer at the time of purchase, the stationery box may be marked with the country of origin of the items inside instead of marking each individual piece.

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 Alice Masterson at 212-637-7090.

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

[ATTACHMENT G]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
New York, NY, September 25, 1998.
CLA-2-96:RR:NC:MM:113 D82271
Category: Classification
Tariff No. 9609.10.0000, 9608.20.0000,
9017.80.0000, 8308.90.9000, 8212.10.0000,
4202.12.2025, 4016.92.0000, and 3926.10.0000

MS. LAUREN HONG
THE DISNEY STORE, INC.
101 North Brand Boulevard, Suite 1000
Glendale, CA 91203-2671

Re: The tariff classification of a stationery kit from Taiwan.

DEAR MS. HONG:

In your letter dated August 24, 1998, you requested a tariff classification ruling.

The merchandise is the Simba School Supply Activity Case. It consists of 2 pencils, 9 felt tipped markers, 1 plastic ruler, 1 plastic clip, 1 pencil sharpener, 1 eraser, and 1 pair of plas-

tic scissors stored in a molded plastic carrying case with a handle. The kit is designed for use by children and is decorated with Simba characters. For classification purposes, each component will be treated individually. You do not specify whether the eraser is made of plastic or rubber. The clip has plastic jaws operated by a metal spring. The scissors are made entirely of plastic.

The applicable subheading for the pencils will be 9609.10.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for pencils and crayons, with leads encased in a rigid sheath. The rate of duty will be 14 cents per gross plus 4.3 percent ad valorem.

The applicable subheading for the markers will be 9608.20.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for felt tipped and other porous-tipped pens and markers. The rate of duty will be 4.8 percent ad valorem.

The applicable subheading for the ruler will be 9017.80.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for instruments for measuring length, for use in the hand, other instruments. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the clip will be 8308.90.9000, Harmonized Tariff Schedule of the United States (HTS), which provides for clasps, frames with clasps, buckles, buckle clasps, hooks, eyes, eyelets and the like and parts thereof of base metal * * * other. The rate of duty will be 3.2 percent ad valorem.

The applicable subheading for the sharpener will be 8214.10.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for paper knives * * * pencil sharpeners (nonmechanical) and blades and other parts thereof. The rate of duty will be 0.3 cents each plus 4.6 percent ad valorem.

The applicable subheading for the carrying case will be 4202.12.2025, Harmonized Tariff Schedule of the United States (HTS), which provides for trunks, suitcases * * * briefcases, school satchels, and similar containers, with outer surface of plastics, structured, rigid on all sides, other. The rate of duty will be 20 percent ad valorem.

The applicable subheading for the eraser, if made of rubber, will be 4016.92.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of vulcanized rubber other than hard rubber * * * erasers. The rate of duty will be 4.2 percent ad valorem.

The applicable subheading for the eraser, if made of plastic, will be 3926.10.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of plastics * * * office or school supplies. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the scissors will be 3926.10.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of plastics * * * office or school supplies. The rate of duty will be 5.3 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist James Smyth at 212-466-2084.

ROBERT B. SWIERUPSKI,

Director,

National Commodity Specialist Division.

[ATTACHMENT H]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
New York, NY, April 28, 1998.

CLA-2-39:RR:NC:SP:221 C86939
Category: Classification
Tariff No. 3926.10.0000, 3926.90.9880,
4016.92.0000, 4823.59.4040, 8214.10.0000,
8308.90.9000, 9017.80.0000, and 9609.10.0000

MS. LAUREN E. HONG
THE DISNEY STORE, INC.
101 North Brand Boulevard, Suite 1000
Glendale, CA 91203-2671

Re: The tariff classification of the "Lady and the Tramp Heart Stationery Kit" from Taiwan.

DEAR MS. HONG:

In your letter dated April 6, 1998, you requested a tariff classification ruling.

A sample of the Heart Stationery Kit was submitted with your letter. The kit consists of forty sheets of heart shaped memo paper, one pencil sharpener, two pencils, one plastic clip or clasp with a metal spring mechanism, one ruler and one eraser, all packaged inside a child's handbag/carry case composed of molded plastics. The case is heart shaped and has a semicircular carrying handle. It is not specially shaped or fitted to contain the stationery components, which are merely placed inside, but is the type of carrying case which may be used to contain and transport any of a number of the child's possessions. The handbag/carry case and the stationery components are not mutually complementary, not adapted to one another, and are not put up to meet one particular need or carry out a specific activity. Thus, the goods do not comprise a set, and each item is separately classifiable. You did not state whether the eraser is composed of plastic or rubber. As you requested, the sample is being returned.

The applicable subheading for the heart shaped handbag/carry case will be 3926.90.9880, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of plastics, other. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the sharpener will be 8214.10.0000, HTS, which provides for paper knives * * * pencil sharpeners (nonmechanical) and blades and other parts thereof. The rate of duty will be 0.3 cents each plus 4.6 percent ad valorem.

The applicable subheading for the pencils will be 9609.10.0000, HTS, which provides for pencils and crayons, with lead encased in a rigid sheath. The rate of duty will be 14 cents per gross plus 4.3 percent ad valorem.

The applicable subheading for the ruler will be 9017.80.0000, HTS, which provides for instruments for measuring length, for use in the hand, other instruments. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the heart shaped paper sheets will be 4823.59.4040, HTS, which provides for other (than certain enumerated) paper and paperboard, cut to size and shape, of a kind used for writing, printing or other graphic purposes. The rate of duty will be 1.8 percent ad valorem.

The applicable subheading for the plastic clip or clasp will be 8308.90.9000, HTS, which provides for clasps * * * of base metal * * * other. The rate of duty will be 3.2 percent ad valorem.

The applicable subheading for the eraser, if composed of plastics, will be 3926.10.0000, HTS, which provides for other articles of plastics, office or school supplies. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the eraser, if composed of rubber, will be 4016.92.0000, HTS, which provides for other articles of vulcanized rubber other than hard rubber: erasers. The rate of duty will be 4.2 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Joan Mazzola at 212-466-5580.

ROBERT B. SWIERUPSKI,

Director,

National Commodity Specialist Division.

[ATTACHMENT I]

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

CLA-2 RR:CR:GC 966173 BJB
Category: Classification
Tariff No. 3926.90.98

MS. JENNY DAVENPORT
WALMART STORES, INC.
Mail Stop #0410-L-32
601 North Walton
Bentonville, AR 72716-0410

Re: Modification of NY I86172; Plastic clip with metal spring.

DEAR MS. DAVENPORT:

This is in reference to New York Ruling I86172, which the Director, Customs National Commodity Specialist Division, New York, New York, issued to you on September 20, 2002. This ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of several articles, including a plastic clip with a metal spring.

We have reviewed the ruling in NY I86172, and have determined the classification with respect to the subject plastic clip is incorrect. This ruling modifies NY I86172 with respect to this good and sets forth the correct classification.

Facts:

The merchandise was identified as a "plastic clip with metal spring," packaged with other goods, including: a 12-inch plastic doll and doll clothing, a plastic mirror, 3-dimensional stickers, toy backpack for the doll, rubber bands, a rubber eraser, plastic ruler, pencil, pencil sharpener and notebook. The eraser, ruler, pencil, pencil sharpener, and notebook, although imported and packaged together with the other goods, were held to be only for a child's use, and not for use with the doll. Thus, as goods not put up together to meet a particular need, or carry out a specific activity, the goods were not a set as provided for under the HTSUS, and each good was classified separately.

The subject clip has two plastic sides with finger tabs at the top and straight edges at the bottom of each side. The underside of each side is fitted with molded plastic moorings which anchor a small metal spring. Pressing inward on the finger tabs opens the clip's baseline edges. The clip's span when fully opened is limited to approximately 0.50 of an inch. Only a few pieces of notepaper may be placed between the baseline edges at a time.

In NY I86172, the subject clip was classified under subheading 8308.90.90, HTSUS, which provides for, "[c]lasp[s], frames with clasp[s], buckle clasp[s], hook[s], eye[s], eyelet[s] and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal: Other, including parts: Other[.]"

Issue:

Whether the subject plastic clip with metal spring is classifiable as a clasp of base metal under heading 8308, HTSUS, or an other article of plastics under heading 3926, HTSUS?

Law and Analysis:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). Under General Rule of Interpretation (GRI) 1, HTSUS,

goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The HTSUS (2003) provisions under consideration are as follows:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other
*	* * * * *
8308	Clasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal:
8308.90	Other, including parts:
8308.90.90	Other
*	* * * * *

As noted above, in NY I86172, at GRI 1, the subject plastic clip was classified under sub-heading 8308.90.90, HTSUS, as “[c]lasps * * *, of base metal, * * *: Other, including parts: Other[.]” However, at GRI 1, two headings describe the good in part. This clip is described in heading 3926, HTSUS, as an other article of plastics, and heading 8308, HTSUS, as a clasp of base metal. As the plastic clip is *prima facie* classifiable in more than one heading, it is necessary to resort to GRI 2.

GRI 2(a) does not apply. GRI 2(b), in pertinent part, provides:

“Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.”

GRI 3 provides, “when, by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods * * *, 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.”

GRI 3(b) provides, in pertinent part:

“(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.”

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. Customs believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN V to GRI 3(a), in pertinent part, provides that:

“when two or more headings each refer to part only of the materials 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 than the others. In such cases, the classification shall be determined by [GRIs] 3(b) or 3(c).”

The subject good is one in which different materials or components form a practically inseparable whole. We must, therefore, resort to GRI 3(b).

EN VII to GRI 3(b), provides that, in

“all these cases the goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”

The term “essential character” is not defined within the HTSUS, GRIs or ENs. EN VIII to GRI 3(b), however, provides the following guidance:

“[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 goods.”

This clip has two plastic sides that form a baseline edge where the two sides meet, and only its spring is made of base metal. *Merriam-Webster’s Collegiate Dictionary*, 10th Ed., (1999) (p. 211), defines a “clasp” as: “a device (as a hook) for holding objects or parts together[.]”

EN 83.08 (p. 1378), in pertinent part, provides that the heading includes:

“(C) Clasps, fasteners, and frames with clasps, for handbags, purses, brief-cases, executive-cases or other travel goods, or for books or wrist-watches; * * *.”

EN 83.08(C) describes clasps of base metal used to securely close or join the sides or ends of a good together (*e.g.*, briefcases). Thus, the sides of a briefcase, which when left open leave the briefcase’s interior and contents exposed, are held securely closed by the interconnecting parts of a metal clasp mounted at corresponding points on each side of the case. Unlike the goods described in the heading and EN 83.08(C) the subject plastic clip is not designed to secure a good closed, or secure its contents. The subject clip is designed to be attached to light correspondence or small pieces of notepaper to organize them. The metal spring improves the clip’s capacity to remain in place once it is attached to the article it is intended to highlight. Thus, although this clip has a metal spring, its function does not make the subject good a clasp of base metal described in heading 8308, HTSUS.

Heading 3926, HTSUS, in pertinent part, provides for “[o]ther articles of plastics[.]” This clip has colorful plastic sides and baseline edges. Its finger tabs, shaped for the placement of reflective stickers are also of plastic. Nearly the entire article is plastic in terms of bulk, quantity, and weight.

In NY I86172, we viewed this clip’s metal spring as imparting its essential character, and therefore, it was classified as a clasp of base metal described in heading 8308, HTSUS. We are now of the view that this clip is predominately of plastic, which imparts its essential character, and should be classified accordingly.

EN 39.26, in pertinent part, provides that the heading “covers articles * * * [that] include: (5) Paperweights, paper-knives, blotting pads, pen-rests, bookmarks, etc.” The goods described in EN 39.26 are of a kind used on a table or desk, at the office, school, or home to organize paperwork. As noted, the subject clip has a function complementary to these goods.

At GRI 3(b), we find that the subject plastic clip is classifiable in heading 3926, HTSUS, which provides for, in pertinent part, “other articles of plastics * * * [.]”

Holding:

Based on the foregoing findings, at GRI 3(b), the subject plastic clip with metal spring is classifiable in subheading 3926.90.98, HTSUS, which provides for “[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other[.]”

Effect on Other Rulings:

NY I86172, dated September 20, 2002, is modified.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT J]

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

CLA-2 RR:CR:GC 966176 BJB
Category: Classification
Tariff No. 3926.90.98

MR. DENNIS SHOSTAK
THE PAPER MAGIC GROUP, INC.
100 North Sixth Street, Suite 899C
Minneapolis, MN 55403

Re: Modification of NY H83785; Plastic clips with metal springs.

DEAR MR. SHOSTAK:

This is in reference to New York Ruling H83785, which the Director, Customs National Commodity Specialist Division, New York, New York, issued to you on August 10, 2001. This ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of four plastic clips, each with a metal spring, and self-adhesive plastic tape with a disposable plastic dispenser.

We have reviewed the ruling in NY H83785, and have determined the classification with respect to the subject plastic clips is incorrect. This ruling modifies NY H83785 with respect to these goods and sets forth the correct classification.

Facts:

The merchandise was identified as "four spring clips," each with "flower-shaped plastic jaws and a metal spring," packaged with other goods, including: self-adhesive plastic tape on a disposable plastic dispenser. The goods were "blister-packed" together. Although packaged together, these goods were determined not to have been put up together to meet a particular need, or carry out a specific activity. Thus, the goods were not a set, as provided for under the HTSUS, and each good was classified separately.

In NY H83785, the subject clips were classified under subheading 8308.90.90, HTSUS, which provides for, "[c]lasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal: Other, including parts: Other[.]"

Issue:

Whether the subject plastic clips with metal springs are classifiable as clasps of base metal under heading 8308, HTSUS, or as other articles of plastics under heading 3926, HTSUS?

Law and Analysis:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). Under General Rule of Interpretation (GRI) 1, HTSUS, goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The HTSUS (2003) provisions under consideration are as follows:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other
*	*
*	*
*	*
*	*
*	*
*	*
8308	Clasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal:
8308.90	Other, including parts:
8308.90.90	Other

* * * * *

As noted above, in NY H83785, at GRI 1, the subject plastic clips were classified under subheading 8308.90.90, HTSUS, as “[c]lasp[s] * * *, of base metal, * * *: Other, including parts: Other[.]” However, at GRI 1, two headings describe the goods in part. These clips are described in heading 3926, HTSUS, as other articles of plastics, and heading 8308, HTSUS, as clasps of base metal. As the plastic clips are *prima facie* classifiable in more than one heading, it is necessary to resort to GRI 2.

GRI 2(a) does not apply. GRI 2(b), in pertinent part, provides:

“Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.”

GRI 3 provides, “when, by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods * * *, 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.”

GRI 3(b) provides, in pertinent part:

“(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.”

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. Customs believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN V to GRI 3(a), in pertinent part, provides that:

“when two or more headings each refer to part only of the materials 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 than the others. In such cases, the classification shall be determined by [GRIs] 3(b) or 3(c).”

The subject goods are those in which different materials or components form a practically inseparable whole. We must, therefore, resort to GRI 3(b).

EN VII to GRI 3(b), provides that, in

“all these cases the goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”

The term “essential character” is not defined within the HTSUS, GRIs or ENs. EN VIII to GRI 3(b), however, provides the following guidance:

“[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 goods.”

Each clip has two plastic sides that form a baseline edge where the two sides meet, and only its spring is made of base metal. *Merriam-Webster's Collegiate Dictionary*, 10th Ed., (1999) (p. 211), defines a “clasp” as: “a device (as a hook) for holding objects or parts together[.]”

EN 83.08 (p. 1378), in pertinent part, provides that the heading includes:

“(C) Clasps, fasteners, and frames with clasps, for handbags, purses, brief-cases, executive-cases or other travel goods, or for books or wrist-watches; * * *.”

EN 83.08(C) describes clasps of base metal used to securely close or join the sides or ends of a good together (*e.g.*, briefcases). Thus, the sides of a briefcase, which when left open leave the briefcase's interior and contents exposed, are held securely closed by the interconnecting parts of a metal clasp mounted at corresponding points on each side of the case. Unlike the goods described in the heading and EN 83.08(C) the subject plastic clips are not designed to secure a good closed, or secure its contents. The subject clips are designed to be attached to light correspondence or small pieces of notepaper to organize them. The metal spring in each clip improves the good's capacity to remain in place once it is attached to the article it is intended to highlight. Thus, although each clip has a metal spring, its function does not make the subject goods clasps of base metal described in heading 8308, HTSUS.

Heading 3926, HTSUS, in pertinent part, provides for "[o]ther articles of plastics[.]" Each clip is made of plastic except for its spring. Nearly the entire article is plastic in terms of bulk, quantity, and weight.

In NY H83785, we viewed the clips' metal spring as imparting the essential character, and therefore, they were classified as clasps of base metal described in heading 8308, HTSUS. We are now of the view that these clips are predominately of plastic, which imparts their essential character, and should be classified accordingly.

EN 39.26, in pertinent part, provides that the heading "covers articles * * * [that] include: (5) Paperweights, paper-knives, blotting pads, pen-rests, bookmarks, etc." The goods described in EN 39.26 are of a kind used on a table or desk, at the office, school, or home to organize paperwork. As noted, the subject clips have a function complementary to these goods.

At GRI 3(b), we find that the subject plastic clips are classifiable in heading 3926, HTSUS, which provides for, in pertinent part, "other articles of plastics * * * [.]"

Holding:

Based on the foregoing findings, at GRI 3(b), the four subject flower-shaped, plastic clips with metal springs are classifiable in subheading 3926.90.98, HTSUS, which provides for "[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Other[.]"

Effect on Other Rulings:

NY H83785, dated August 10, 2001, is modified.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT K]

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

CLA-2 RR:CR:GC 966177 BJB
Category: Classification
Tariff No. 3926.90.98

MR. STEPHEN WONG
OCEANLAND
8054 East Garvey Avenue
Rosemead, CA 91770

Re: Modification of NY D87503; Plastic clip with metal spring.

DEAR MR. WONG:

This is in reference to New York Ruling D87503, which the Director, Customs National Commodity Specialist Division, New York, New York, issued to you on February 16, 1999. This ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of several articles, including a plastic clip with a metal spring.

We have reviewed the ruling in NY D87503, and have determined the classification with respect to the subject plastic clip is incorrect. This ruling modifies NY D87503 with respect to this good and sets forth the correct classification.

Facts:

The merchandise was identified as a “plastic clip with metal spring,” packaged with other goods, including: backpacks made of textile material of man-made fibers, a pad of paper, vinyl-coated metal paper clips, plastic clothespins, plastic rings, rubber bands, and two felt-tipped pens. Customs determined that these goods were not adapted to one another, and not put up to meet one particular need or carry out a specific activity. Thus, as goods not put up together to meet a particular need, or carry out a specific activity, they were not a set as provided for under the HTSUS, and each good was classified separately.

In NY D87503, the subject clip was classified under subheading 8308.90.90, HTSUS, which provides for, “[c]lasp[s], frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal: Other, including parts: Other[.]”

Issue:

Whether the subject plastic clip with metal spring is classifiable as a clasp of base metal under heading 8308, HTSUS, or an other article of plastics under heading 3926, HTSUS?

Law and Analysis:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). Under General Rule of Interpretation (GRI) 1, HTSUS, goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The HTSUS (2003) provisions under consideration are as follows:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other
*	* * * * *
8308	Clasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal:
8308.90	Other, including parts:
8308.90.90	Other
*	* * * * *

As noted above, in NY D87503, at GRI 1, the subject plastic clip was classified under subheading 8308.90.90, HTSUS, as “[c]lasp[s] * * *, of base metal, * * *: Other, including parts: Other[.]” However, at GRI 1, two headings describe the good in part. This clip is described in heading 3926, HTSUS, as an other article of plastics, and heading 8308, HTSUS, as a clasp of base metal. As the plastic clip is *prima facie* classifiable in more than one heading, it is necessary to resort to GRI 2.

GRI 2(a) does not apply. GRI 2(b), in pertinent part, provides:

“Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.”

GRI 3 provides, “when, by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods * * *, 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.”

GRI 3(b) provides, in pertinent part:

“(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 clas-

sified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. Customs believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN V to GRI 3(a), in pertinent part, provides that:

“when two or more headings each refer to part only of the materials 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 than the others. In such cases, the classification shall be determined by [GRIs] 3(b) or 3(c).”

The subject good is one in which different materials or components form a practically inseparable whole. We must, therefore, resort to GRI 3(b).

EN VII to GRI 3(b), provides that, in

“all these cases the goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”

The term “essential character” is not defined within the HTSUS, GRIs or ENs. EN VIII to GRI 3(b), however, provides the following guidance:

“[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 goods.”

This clip has two plastic sides that form a baseline edge where the two sides meet, and only its spring is made of base metal. *Merriam-Webster's Collegiate Dictionary*, 10th Ed., (1999) (p. 211), defines a “clasp” as: “a device (as a hook) for holding objects or parts together[.]”

EN 83.08 (p. 1378), in pertinent part, provides that the heading includes:

“(C) Clasps, fasteners, and frames with clasps, for handbags, purses, brief-cases, executive-cases or other travel goods, or for books or wrist-watches; * * *.”

EN 83.08(C) describes clasps of base metal used to securely close or join the sides or ends of a good together (*e.g.*, briefcases). Thus, the sides of a briefcase, which when left open leave the briefcase's interior and contents exposed, are held securely closed by the interconnecting parts of a metal clasp mounted at corresponding points on each side of the case. Unlike the goods described in the heading and EN 83.08(C) the subject plastic clip is not designed to secure a good closed, or secure its contents. The subject clip is designed to be attached to light correspondence or small pieces of notepaper to organize them. The metal spring improves the clip's capacity to remain in place once it is attached to the article it is intended to highlight. Thus, although this clip has a metal spring, its function does not make the subject good a clasp of base metal described in heading 8308, HTSUS.

Heading 3926, HTSUS, in pertinent part, provides for “[o]ther articles of plastics[.]” This clip is made of plastic except for its spring. Nearly the entire article is plastic in terms of bulk, quantity, and weight.

In NY D87503, we viewed this clip's metal spring as imparting its essential character, and therefore, it was classified as a clasp of base metal described in heading 8308, HTSUS. We are now of the view that this clip is predominately of plastic, which imparts its essential character, and should be classified accordingly.

EN 39.26, in pertinent part, provides that the heading “covers articles * * * [that] include: (5) Paperweights, paper-knives, blotting pads, pen-rests, bookmarks, etc.” The goods described in EN 39.26 are of a kind used on a table or desk, at the office, school, or home to organize paperwork. As noted, the subject clip has a function complementary to these goods.

At GRI 3(b), we find that the subject plastic clip is classifiable in heading 3926, HTSUS, which provides for, in pertinent part, “other articles of plastics * * * [.]”

Holding:

Based on the foregoing findings, at GRI 3(b), the subject plastic clip with metal spring is classifiable in subheading 3926.90.98, HTSUS, which provides for “[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other[.]”

Effect on Other Rulings:

NY D87503, dated February 16, 1999, is modified.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT L]

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

CLA-2 RR:CR:GC 966178 BJB
Category: Classification
Tariff No. 3926.90.98

MS. LAUREN HONG
THE DISNEY STORE, INC.
101 North Brand Boulevard, Suite 1000
Glendale, CA 91203-2671

Re: Modification of NY B84870; Plastic clip with metal spring.

DEAR MS. HONG:

This is in reference to New York Ruling B84870, which the Director, Customs National Commodity Specialist Division, New York, New York, issued to you on February 16, 1999. This ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of several articles, including a plastic clip with a metal spring.

We have reviewed the ruling in NY B84870, and have determined the classification with respect to the subject plastic clip is incorrect. This ruling modifies NY B84870 with respect to this good and sets forth the correct classification.

Facts:

The merchandise was identified as a “plastic clip with metal spring,” packaged with other goods, including: a plastic box with a lid opening and handle, a lock and key, that when empty may be used as a coin bank; 3 colored pencils; a plastic ruler; a plastic pencil sharpener; a rubber eraser; a sheet of printed stickers; and a small address book. Although packaged together for retail sale, Customs determined that these goods served several different purposes, and were not put up together to meet a particular need, or carry out a specific activity. Therefore, these goods were not a set, as provided for under the HTSUS, and each good was classified separately.

In NY B84870, the subject clip was classified under subheading 8308.90.90, HTSUS, which provides for, “[c]lasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal: Other, including parts: Other[.]”

Issue:

Whether the subject plastic clip with metal spring is classifiable as a clasp of base metal under heading 8308, HTSUS, or an other article of plastics under heading 3926, HTSUS?

Law and Analysis:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). Under General Rule of Interpretation (GRI) 1, HTSUS, goods are to be classified according to the terms of the headings and any relative section or

chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The HTSUS (2003) provisions under consideration are as follows:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other
*	* * * * *
8308	Clasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal:
8308.90	Other, including parts:
8308.90.90	Other
*	* * * * *

As noted above, in NY B84870, at GRI 1, the subject plastic clip was classified under sub-heading 8308.90.90, HTSUS, as “[c]lasps * * *, of base metal, * * *: Other, including parts: Other[.]” However, at GRI 1, two headings describe the good in part. This clip is described in heading 3926, HTSUS, as an other article of plastics, and heading 8308, HTSUS, as a clasp of base metal. As the plastic clip is *prima facie* classifiable in more than one heading, it is necessary to resort to GRI 2.

GRI 2(a) does not apply. GRI 2(b), in pertinent part, provides:

“Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.”

GRI 3 provides, “when, by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods * * *, 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.”

GRI 3(b) provides, in pertinent part:

“(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.”

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. Customs believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN V to GRI 3(a), in pertinent part, provides that:

“when two or more headings each refer to part only of the materials 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 than the others. In such cases, the classification shall be determined by [GRIs] 3(b) or 3(c).”

The subject good is one in which different materials or components form a practically inseparable whole. We must, therefore, resort to GRI 3(b).

EN VII to GRI 3(b), provides that, in

“all these cases the goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”

The term “essential character” is not defined within the HTSUS, GRIs or ENs. EN VIII to GRI 3(b), however, provides the following guidance:

“[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 goods.”

This clip has two plastic sides that form a baseline edge where the two sides meet, and only its spring is made of base metal. *Merriam-Webster’s Collegiate Dictionary*, 10th Ed., (1999) (p. 211), defines a “clasp” as: “a device (as a hook) for holding objects or parts together[.]”

EN 83.08 (p. 1378), in pertinent part, provides that the heading includes:

“(C) Clasps, fasteners, and frames with clasps, for handbags, purses, brief-cases, executive-cases or other travel goods, or for books or wrist-watches; * * *.”

EN 83.08(C) describes clasps of base metal used to securely close or join the sides or ends of a good together (*e.g.*, briefcases). Thus, the sides of a briefcase, which when left open leave the briefcase’s interior and contents exposed, are held securely closed by the interconnecting parts of a metal clasp mounted at corresponding points on each side of the case. Unlike the goods described in the heading and EN 83.08(C) the subject plastic clip is not designed to secure a good closed, or secure its contents. The subject clip is designed to be attached to light correspondence or small pieces of notepaper to organize them. The metal spring improves the clip’s capacity to remain in place once it is attached to the article it is intended to highlight. Thus, although this clip has a metal spring, its function does not make the subject good a clasp of base metal described in heading 8308, HTSUS.

Heading 3926, HTSUS, in pertinent part, provides for “[o]ther articles of plastics[.]” This clip is made of plastic except for its spring. Nearly the entire article is plastic in terms of bulk, quantity, and weight.

In NY B84870, we viewed this clip’s metal spring as imparting its essential character, and therefore, it was classified as a clasp of base metal described in heading 8308, HTSUS. We are now of the view that this clip is predominately of plastic, which imparts its essential character, and should be classified accordingly.

EN 39.26, in pertinent part, provides that the heading “covers articles * * * [that] include: (5) Paperweights, paper-knives, blotting pads, pen-rests, bookmarks, etc.” The goods described in EN 39.26 are of a kind used on a table or desk, at the office, school, or home to organize paperwork. As noted, the subject clip has a function complementary to these goods.

At GRI 3(b), we find that the subject plastic clip is classifiable in heading 3926, HTSUS, which provides for, in pertinent part, “other articles of plastics * * * [.]”

Holding:

Based on the foregoing findings, at GRI 3(b), the subject plastic clip with metal spring is classifiable in subheading 3926.90.98, HTSUS, which provides for “[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other[.]”

Effect on Other Rulings:

NY B84870, dated February 16, 1999, is modified.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT M]

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

CLA-2 RR:CR:GC 966179 BJB
Category: Classification
Tariff No. 3926.90.98

MS. LORIANNE ALDINGER
RITE AID CORPORATION
30 Hunter Lane
Camp Hill, PA 17011

Re: Modification of NY H80473; Plastic clips with metal springs.

DEAR MS. ALDINGER:

This is in reference to New York Ruling H80473, which the Director, Customs National Commodity Specialist Division, New York, New York, issued to you on May 11, 2001. This ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of several articles, including plastic clips, each with a metal spring.

We have reviewed the ruling in NY H80473, and have determined the classification with respect to the subject plastic clips is incorrect. This ruling modifies NY H80473 with respect to these goods and sets forth the correct classification.

Facts:

The merchandise was identified as "plastic clips," each with a metal spring, packaged with other goods, including: backpacks made of textile material of man-made fibers, a pad of paper, vinyl-coated metal paper clips, plastic clothespins, plastic rings, rubber bands, and two felt-tipped pens. Customs determined that these goods were not adapted to one another, and not put up to meet one particular need or carry out a specific activity. Thus, as goods not put up together to meet a particular need, or carry out a specific activity, they were not a set as provided for under the HTSUS, and each good was classified separately.

In NY H80473, the subject clips were classified under subheading 8308.90.90, HTSUS, which provides for, "[c]lasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal: Other, including parts: Other[.]"

Issue:

Whether the subject plastic clips with metal springs are classifiable as clasps of base metal under heading 8308, HTSUS, or as other articles of plastics under heading 3926, HTSUS?

Law and Analysis:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). Under General Rule of Interpretation (GRI) 1, HTSUS, goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The HTSUS (2003) provisions under consideration are as follows:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other
*	* * * * *
8308	Clasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal:
8308.90	Other, including parts:
8308.90.90	Other

* * * * *

As noted above, in NY H80473, at GRI 1, the subject plastic clips were classified under subheading 8308.90.90, HTSUS, as “[c]lasp[s] * * *, of base metal, * * *: Other, including parts: Other[.]” However, at GRI 1, two headings describe the good in part. These clips are described in heading 3926, HTSUS, as other articles of plastics, and heading 8308, HTSUS, as clasps of base metal. As the plastic clips are *prima facie* classifiable in more than one heading, it is necessary to resort to GRI 2.

GRI 2(a) does not apply. GRI 2(b), in pertinent part, provides:

“Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.”

GRI 3 provides, “when, by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods * * *, 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.”

GRI 3(b) provides, in pertinent part:

“(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.”

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. Customs believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN V to GRI 3(a), in pertinent part, provides that:

“when two or more headings each refer to part only of the materials 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 than the others. In such cases, the classification shall be determined by [GRIs] 3(b) or 3(c).”

The subject goods are those in which different materials or components form a practically inseparable whole. We must, therefore, resort to GRI 3(b).

EN VII to GRI 3(b), provides that, in

“all these cases the goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”

The term “essential character” is not defined within the HTSUS, GRIs or ENs. EN VIII to GRI 3(b), however, provides the following guidance:

“[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 goods.”

Each clip has two plastic sides that form a baseline edge where the two sides meet, and only its spring is made of base metal. *Merriam-Webster’s Collegiate Dictionary*, 10th Ed., (1999) (p. 211), defines a “clasp” as: “a device (as a hook) for holding objects or parts together[.]”

EN 83.08 (p. 1378), in pertinent part, provides that the heading includes:

“(C) Clasps, fasteners, and frames with clasps, for handbags, purses, brief-cases, executive-cases or other travel goods, or for books or wrist-watches; * * *.”

EN 83.08(C) describes clasps of base metal used to securely close or join the sides or ends of a good together (*e.g.*, briefcases). Thus, the sides of a briefcase, which when left open leave the briefcase's interior and contents exposed, are held securely closed by the interconnecting parts of a metal clasp mounted at corresponding points on each side of the case. Unlike the goods described in the heading and EN 83.08(C) the subject plastic clips are not designed to secure a good closed, or secure its contents. The subject clips are designed to be attached to light correspondence or small pieces of notepaper to organize them. The metal spring in each clip improves the good's capacity to remain in place once it is attached to the article it is intended to highlight. Thus, although each clip has a metal spring, its function does not make the subject goods clasps of base metal described in heading 8308, HTSUS.

Heading 3926, HTSUS, in pertinent part, provides for "[o]ther articles of plastics[.]" Each clip is made of plastic except for its spring. Nearly the entire article is plastic in terms of bulk, quantity, and weight.

In NY H80473, we viewed the clips' metal spring as imparting the essential character, and therefore, they were classified as a clasp of base metal described in heading 8308, HTSUS. We are now of the view that these clips are predominately of plastic, which imparts their essential character, and should be classified accordingly.

EN 39.26, in pertinent part, provides that the heading "covers articles * * * [that] include: (5) Paperweights, paper-knives, blotting pads, pen-rests, bookmarks, etc." The goods described in EN 39.26 are of a kind used on a table or desk, at the office, school, or home to organize paperwork. As noted, the subject clips have a function complementary to these goods.

At GRI 3(b), we find that the subject plastic clips are classifiable in heading 3926, HTSUS, which provides for, in pertinent part, "other articles of plastics * * * [.]"

Holding:

Based on the foregoing findings, at GRI 3(b), the subject plastic clips, each with a metal spring are classifiable in subheading 3926.90.98, HTSUS, which provides for "[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other[.]"

Effect on Other Rulings:

NY H80473, dated May 11, 2001, is modified.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT N]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.
CLA-2 RR:CR:GC 966180 BJB
Category: Classification
Tariff No. 3926.90.98

MS. LORIANNE ALDINGER
RITE AID CORPORATION
30 Hunter Lane
Camp Hill, PA 17011

Re: Modification of NY H80474; Plastic clips with metal springs.

DEAR MS. ALDINGER:

This is in reference to New York Ruling H80474, which the Director, Customs National Commodity Specialist Division, New York, New York, issued to you on May 11, 2001. This ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of several articles, including plastic clips, each with a metal spring.

We have reviewed the ruling in NY H80474, and have determined the classification with respect to the subject plastic clips is incorrect. This ruling modifies NY H80474 with respect to these goods and sets forth the correct classification.

Facts:

The merchandise was identified as “plastic clips” each with a metal spring, packaged with other goods, including: backpacks made of textile material of man-made fibers, a pad of paper, vinyl-coated metal paper clips, plastic clothespins, plastic rings, rubber bands, and two felt-tipped pens. Customs determined that these goods were not adapted to one another, and not put up to meet one particular need or carry out a specific activity. Thus, as goods not put up together to meet a particular need, or carry out a specific activity, they were not a set as provided for under the HTSUS, and each good was classified separately.

In NY H80474, the subject clips were classified under subheading 8308.90.90, HTSUS, which provides for, “[c]lasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal: Other, including parts: Other[.]”

Issue:

Whether the subject plastic clips with metal springs are classifiable as clasps of base metal under heading 8308, HTSUS, or an other articles of plastics under heading 3926, HTSUS?

Law and Analysis:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). Under General Rule of Interpretation (GRI) 1, HTSUS, goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The HTSUS (2003) provisions under consideration are as follows:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other
*	*
*	*
*	*
*	*
*	*
*	*
*	*
8308	Clasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal:
8308.90	Other, including parts:
8308.90.90	Other
*	*
*	*
*	*
*	*
*	*
*	*
*	*

As noted above, in NY H80474, at GRI 1, the subject plastic clips were classified under subheading 8308.90.90, HTSUS, as “[c]lasps * * *, of base metal, * * *: Other, including parts: Other[.]” However, at GRI 1, two headings describe the goods in part. These clips are described in heading 3926, HTSUS, as other articles of plastics, and heading 8308, HTSUS, as clasps of base metal. As the plastic clips are *prima facie* classifiable in more than one heading, it is necessary to resort to GRI 2.

GRI 2(a) does not apply. GRI 2(b), in pertinent part, provides:

“Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.”

GRI 3 provides, “when, by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods * * *, 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.”

GRI 3(b) provides, in pertinent part:

“(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.”

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. Customs believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN V to GRI 3(a), in pertinent part, provides that:

“when two or more headings each refer to part only of the materials 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 than the others. In such cases, the classification shall be determined by [GRIs] 3(b) or 3(c).”

The subject goods are those in which different materials or components form a practically inseparable whole. We must, therefore, resort to GRI 3(b).

EN VII to GRI 3(b), provides that, in

“all these cases the goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”

The term “essential character” is not defined within the HTSUS, GRIs or ENs. EN VIII to GRI 3(b), however, provides the following guidance:

“[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 goods.”

Each clip has two plastic sides that form a baseline edge where the two sides meet, and only its spring is made of base metal. *Merriam-Webster's Collegiate Dictionary*, 10th Ed., (1999) (p. 211), defines a “clasp” as: “a device (as a hook) for holding objects or parts together[.]”

EN 83.08 (p. 1378), in pertinent part, provides that the heading includes:

“(C) Clasps, fasteners, and frames with clasps, for handbags, purses, brief-cases, executive-cases or other travel goods, or for books or wrist-watches; * * *.”

EN 83.08(C) describes clasps of base metal used to securely close or join the sides or ends of a good together (*e.g.*, briefcases). Thus, the sides of a briefcase, which when left open leave the briefcase's interior and contents exposed, are held securely closed by the interconnecting parts of a metal clasp mounted at corresponding points on each side of the case. Unlike the goods described in the heading and EN 83.08(C) the subject plastic clips are not designed to secure a good closed, or secure its contents. The subject clips are designed to be attached to light correspondence or small pieces of notepaper to organize them. The metal spring in each clip improves the good's capacity to remain in place once it is attached to the article it is intended to highlight. Thus, although each clip has a metal spring, its function does not make the subject goods clasps of base metal described in heading 8308, HTSUS.

Heading 3926, HTSUS, in pertinent part, provides for “[o]ther articles of plastics[.]” Each clip is made of plastic except for its spring. Nearly the entire article is plastic in terms of bulk, quantity, and weight.

In NY H80474, we viewed the clips' metal spring as imparting the essential character, and therefore, they were classified as clasps of base metal described in heading 8308, HTSUS. We are now of the view that these clips are predominately of plastic, which imparts their essential character, and should be classified accordingly.

EN 39.26, in pertinent part, provides that the heading “covers articles * * * [that] include: (5) Paperweights, paper-knives, blotting pads, pen-rests, bookmarks, etc.” The goods described in EN 39.26 are of a kind used on a table or desk, at the office, school, or home to organize paperwork. As noted, the subject clips have a function complementary to these goods.

At GRI 3(b), we find that the subject plastic clips are classifiable in heading 3926, HTSUS, which provides for, in pertinent part, “other articles of plastics * * * [.]”

Holding:

Based on the foregoing findings, at GRI 3(b), the subject plastic clips with metal springs are classifiable in subheading 3926.90.98, HTSUS, which provides for “[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other[.]”

Effect on Other Rulings:

NY H80474, dated May 11, 2001, is modified.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT O]

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

CLA-2 RR:CR:GC 966181 BJB
Category: Classification
Tariff No. 3926.90.98

MS. LAUREN HONG
THE DISNEY STORE, INC.
101 North Brand Boulevard, Suite 1000
Glendale, CA 91203-2671

RE: Modification of NY D82271; Plastic clip with metal spring.

DEAR MS. HONG:

This is in reference to New York Ruling D82271, which the Director, Customs National Commodity Specialist Division, New York, New York, issued to you on September 25, 1998. This ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of several articles, including a plastic clip with a metal spring.

We have reviewed the ruling in NY D82271, and have determined the classification with respect to the subject plastic clip is incorrect. This ruling modifies NY D82271 with respect to this good and sets forth the correct classification.

Facts:

The merchandise was identified as a “plastic clip with metal spring,” packaged with other goods, including: 2 pencils, 9 felt-tipped markers, a plastic ruler, a pencil sharpener, a pair of plastic scissors, and a molded plastic carrying case. Although packaged together, Customs determined that these goods were not put up together to meet a particular need, or carry out a specific activity. Therefore, these goods were not a set as provided for under the HTSUS, and each good was classified separately.

In NY D82271, the subject clip was classified under subheading 8308.90.90, HTSUS, which provides for, “[c]lasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal: Other, including parts: Other[.]”

Issue:

Whether the subject plastic clip with metal spring is classifiable as a clasp of base metal under heading 8308, HTSUS, or an other article of plastics under heading 3926, HTSUS?

Law and Analysis:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). Under General Rule of Interpretation (GRI) 1, HTSUS, goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The HTSUS (2003) provisions under consideration are as follows:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other
* * * * *	
8308	Clasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal:
8308.90	Other, including parts:
8308.90.90	Other
* * * * *	

As noted above, in NY D82271, at GRI 1, the subject plastic clip was classified under subheading 8308.90.90, HTSUS, as “[c]lasps * * *, of base metal, * * *: Other, including parts: Other[.]” However, at GRI 1, two headings describe the good in part. This clip is described in heading 3926, HTSUS, as an other article of plastics, and heading 8308, HTSUS, as a clasp of base metal. As the plastic clip is *prima facie* classifiable in more than one heading, it is necessary to resort to GRI 2.

GRI 2(a) does not apply. GRI 2(b), in pertinent part, provides:

“Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.”

GRI 3 provides, “when, by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods * * *, 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.”

GRI 3(b) provides, in pertinent part:

“(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.”

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. Customs believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN V to GRI 3(a), in pertinent part, provides that:

“when two or more headings each refer to part only of the materials 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 than the others. In such cases, the classification shall be determined by [GRIs] 3(b) or 3(c).”

The subject good is one in which different materials or components form a practically inseparable whole. We must, therefore, resort to GRI 3(b).

EN VII to GRI 3(b), provides that, in

“all these cases the goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”

The term “essential character” is not defined within the HTSUS, GRIs or ENs. EN VIII to GRI 3(b), however, provides the following guidance:

“[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 goods.”

This clip has two plastic sides that form a baseline edge where the two sides meet, and only its spring is made of base metal. *Merriam-Webster’s Collegiate Dictionary*, 10th Ed., (1999) (p. 211), defines a “clasp” as: “a device (as a hook) for holding objects or parts together[.]”

EN 83.08 (p. 1378), in pertinent part, provides that the heading includes:

“(C) Clasps, fasteners, and frames with clasps, for handbags, purses, brief-cases, executive-cases or other travel goods, or for books or wrist-watches; * * *.”

EN 83.08(C) describes clasps of base metal used to securely close or join the sides or ends of a good together (*e.g.*, briefcases). Thus, the sides of a briefcase, which when left open leave the briefcase’s interior and contents exposed, are held securely closed by the interconnecting parts of a metal clasp mounted at corresponding points on each side of the case. Unlike the goods described in the heading and EN 83.08(C) the subject plastic clip is not designed to secure a good closed, or secure its contents. The subject clip is designed to be attached to light correspondence or small pieces of notepaper to organize them. The metal spring improves the clip’s capacity to remain in place once it is attached to the article it is intended to highlight. Thus, although this clip has a metal spring, its function does not make the subject good a clasp of base metal described in heading 8308, HTSUS.

Heading 3926, HTSUS, in pertinent part, provides for “[o]ther articles of plastics[.]” This clip is made of plastic except for its spring. Nearly the entire article is plastic in terms of bulk, quantity, and weight.

In NY D82271, we viewed this clip’s metal spring as imparting its essential character, and therefore, it was classified as a clasp of base metal described in heading 8308, HTSUS. We are now of the view that this clip is predominately of plastic, which imparts its essential character, and should be classified accordingly.

EN 39.26, in pertinent part, provides that the heading “covers articles * * * [that] include: (5) Paperweights, paper-knives, blotting pads, pen-rests, bookmarks, etc.” The goods described in EN 39.26 are of a kind used on a table or desk, at the office, school, or home to organize paperwork. As noted, the subject clip has a function complementary to these goods.

At GRI 3(b), we find that the subject plastic clip is classifiable in heading 3926, HTSUS, which provides for, in pertinent part, “other articles of plastics * * * [.]”

Holding:

Based on the foregoing findings, at GRI 3(b), the subject plastic clip with metal spring is classifiable in subheading 3926.90.98, HTSUS, which provides for “[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other[.]”

Effect on Other Rulings:

NY D82271, dated September 25, 1998, is modified.

MYLES B. HARMON,
Director,
Commercial Rulings Division.

[ATTACHMENT P]

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

CLA-2 RR:CR:GC 966182 BJB
Category: Classification
Tariff No. 3926.90.98

MS. LAUREN HONG
THE DISNEY STORE, INC.
101 North Brand Boulevard, Suite 1000
Glendale, CA 91203-2671

Re: Modification of NY C86939; Plastic clip with metal spring.

DEAR MS. HONG:

This is in reference to New York Ruling C86939, which the Director, Customs National Commodity Specialist Division, New York, New York, issued to you on April 28, 1998. This ruling concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of several articles, including a plastic clip with a metal spring.

We have reviewed the ruling in NY C86939, and have determined the classification with respect to the subject plastic clip is incorrect. This ruling modifies NY C86939 with respect to this good and sets forth the correct classification.

Facts:

The merchandise was identified as a "plastic clip with metal spring," packaged with other goods, including: forty sheets of heart-shaped memo paper, a pencil sharpener, two pencils, a ruler, an eraser, and a child's molded plastic carrying case. The carrying case, though heart-shaped, was not specially shaped or fitted to contain the other articles. Customs determined that the carrying case was of a type used to contain and transport any of a number of a child's possessions. Customs held that these goods were not mutually complementary, not adapted to one another, and not put up to meet one particular need or carry out a specific activity. Therefore, these goods were not a set as provided for under the HTSUS, and each good was classified separately.

In NY C86939, the subject clip was classified under subheading 8308.90.90, HTSUS, which provides for, "[c]lasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal: Other[.]"

Issue:

Whether the subject plastic clip with metal spring is classifiable as a clasp of base metal under heading 8308, HTSUS, or an other article of plastics under heading 3926, HTSUS?

Law and Analysis:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). Under General Rule of Interpretation (GRI) 1, HTSUS, goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The HTSUS (2003) provisions under consideration are as follows:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.98	Other
*	* * * * *
8308	Clasps, frames with clasps, buckle clasps, hooks, eyes, eyelets and the like and parts thereof, of base metal, of a kind used for * * * or other madeup articles; tubular or bifurcated rivets of base metal; beads and spangles of base metal:
8308.90	Other, including parts:
8308.90.90	Other

* * * * *

As noted above, in NY C86939, at GRI 1, the subject plastic clip was classified under sub-heading 8308.90.90, HTSUS, as “[c]lasp[s] * * *, of base metal, * * *: Other, including parts: Other[.]” However, at GRI 1, two headings describe the good in part. This clip is described in heading 3926, HTSUS, as an other article of plastics, and heading 8308, HTSUS, as a clasp of base metal. As the plastic clip is *prima facie* classifiable in more than one heading, it is necessary to resort to GRI 2.

GRI 2(a) does not apply. GRI 2(b), in pertinent part, provides:

“Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.”

GRI 3 provides, “when, by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods * * *, 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.”

GRI 3(b) provides, in pertinent part:

“(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.”

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. Customs believes the ENs should always be consulted. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN V to GRI 3(a), in pertinent part, provides that:

“when two or more headings each refer to part only of the materials 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 than the others. In such cases, the classification shall be determined by [GRIs] 3(b) or 3(c).”

The subject good is one in which different materials or components form a practically inseparable whole. We must, therefore, resort to GRI 3(b).

EN VII to GRI 3(b), provides that, in

“all these cases the goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.”

The term “essential character” is not defined within the HTSUS, GRIs or ENs. EN VIII to GRI 3(b), however, provides the following guidance:

“[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 goods.”

This clip has two plastic sides that form a baseline edge where the two sides meet, and only its spring is made of base metal. *Merriam-Webster's Collegiate Dictionary*, 10th Ed., (1999) (p. 211), defines a “clasp” as: “a device (as a hook) for holding objects or parts together[.]”

EN 83.08 (p. 1378), in pertinent part, provides that the heading includes:

“(C) Clasps, fasteners, and frames with clasps, for handbags, purses, brief-cases, executive-cases or other travel goods, or for books or wrist-watches; * * *.”

EN 83.08(C) describes clasps of base metal used to securely close or join the sides or ends of a good together (*e.g.*, briefcases). Thus, the sides of a briefcase, which when left open leave the briefcase's interior and contents exposed, are held securely closed by the interconnecting parts of a metal clasp mounted at corresponding points on each side of the case. Unlike the goods described in the heading and EN 83.08(C) the subject plastic clip is not designed to secure a good closed, or secure its contents. The subject clip is designed to be attached to light correspondence or small pieces of notepaper to organize them. The metal spring improves the clip's capacity to remain in place once it is attached to the article it is intended to highlight. Thus, although this clip has a metal spring, its function does not make the subject good a clasp of base metal described in heading 8308, HTSUS.

Heading 3926, HTSUS, in pertinent part, provides for "[o]ther articles of plastics[.]" This clip is made of plastic except for its spring. Nearly the entire article is plastic in terms of bulk, quantity, and weight.

In NY C86939, we viewed this clip's metal spring as imparting its essential character, and therefore, it was classified as a clasp of base metal described in heading 8308, HTSUS. We are now of the view that this clip is predominately of plastic, which imparts its essential character, and should be classified accordingly.

EN 39.26, in pertinent part, provides that the heading "covers articles * * * [that] include: (5) Paperweights, paper-knives, blotting pads, pen-rests, bookmarks, etc." The goods described in EN 39.26 are of a kind used on a table or desk, at the office, school, or home to organize paperwork. As noted, the subject clip has a function complementary to these goods.

At GRI 3(b), we find that the subject plastic clip is classifiable in heading 3926, HTSUS, which provides for, in pertinent part, "other articles of plastics * * * [.]"

Holding:

Based on the foregoing findings, at GRI 3(b), the subject plastic clip with metal spring is classifiable in subheading 3926.90.98, HTSUS, which provides for "[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other[.]"

Effect on Other Rulings:

NY C86939, dated April 28, 1998, is modified.

MYLES B. HARMON,
 Director,
 Commercial Rulings Division.