

# Bureau of Customs and Border Protection

## *CBP Decisions*

(CBP Dec. 04-42)

### FOREIGN CURRENCIES

#### DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR NOVEMBER, 2004

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

Holiday(s): November 11, 2004  
November 25, 2004

#### European Union euro:

November 1, 2004 .....	\$1.274100
November 2, 2004 .....	1.270300
November 3, 2004 .....	1.278700
November 4, 2004 .....	1.288300
November 5, 2004 .....	1.293800
November 6, 2004 .....	1.293800
November 7, 2004 .....	1.293800
November 8, 2004 .....	1.293600
November 9, 2004 .....	1.293000
November 10, 2004 .....	1.292500
November 11, 2004 .....	1.292500
November 12, 2004 .....	1.297300
November 13, 2004 .....	1.297300
November 14, 2004 .....	1.297300
November 15, 2004 .....	1.294400
November 16, 2004 .....	1.297900
November 17, 2004 .....	1.303100
November 18, 2004 .....	1.298200
November 19, 2004 .....	1.305900
November 20, 2004 .....	1.305900
November 21, 2004 .....	1.305900
November 22, 2004 .....	1.304800
November 23, 2004 .....	1.309000

## FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for November 2004 (continued):

## European Union euro: (continued):

November 24, 2004 .....	1.316200
November 25, 2004 .....	1.316200
November 26, 2004 .....	1.328800
November 27, 2004 .....	1.328800
November 28, 2004 .....	1.328800
November 29, 2004 .....	1.328600
November 30, 2004 .....	1.325900

## South Korea won:

November 1, 2004.....	\$0.000894
November 2, 2004 .....	0.000897
November 3, 2004 .....	0.000896
November 4, 2004 .....	0.000899
November 5, 2004 .....	0.000901
November 6, 2004 .....	0.000901
November 7, 2004 .....	0.000901
November 8, 2004 .....	0.000905
November 9, 2004 .....	0.000907
November 10, 2004 .....	0.000900
November 11, 2004 .....	0.000900
November 12, 2004 .....	0.000906
November 13, 2004 .....	0.000906
November 14, 2004 .....	0.000906
November 15, 2004 .....	0.000916
November 16, 2004 .....	0.000917
November 17, 2004 .....	0.000928
November 18, 2004 .....	0.000935
November 19, 2004 .....	0.000936
November 20, 2004 .....	0.000936
November 21, 2004 .....	0.000936
November 22, 2004 .....	0.000940
November 23, 2004 .....	0.000939
November 24, 2004 .....	0.000938
November 25, 2004 .....	0.000938
November 26, 2004 .....	0.000956
November 27, 2004 .....	0.000956
November 28, 2004 .....	0.000956
November 29, 2004 .....	0.000954
November 30, 2004 .....	0.000954

## Taiwan N.T. dollar:

November 1, 2004.....	\$0.029904
November 2, 2004 .....	0.029869
November 3, 2004 .....	0.029954
November 4, 2004 .....	0.030166
November 5, 2004 .....	0.030216
November 6, 2004 .....	0.030216
November 7, 2004 .....	0.030216

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for November 2004 (continued):

Taiwan N.T. dollar: (continued):

November 8, 2004 .....	0.030381
November 9, 2004 .....	0.030381
November 10, 2004 .....	0.030093
November 11, 2004 .....	0.030093
November 12, 2004 .....	0.030331
November 13, 2004 .....	0.030331
November 14, 2004 .....	0.030331
November 15, 2004 .....	0.030474
November 16, 2004 .....	0.030479
November 17, 2004 .....	0.030703
November 18, 2004 .....	0.030642
November 19, 2004 .....	0.030826
November 20, 2004 .....	0.030826
November 21, 2004 .....	0.030826
November 22, 2004 .....	0.030807
November 23, 2004 .....	0.030817
November 24, 2004 .....	0.031046
November 25, 2004 .....	0.031046
November 26, 2004 .....	0.031056
November 27, 2004 .....	0.031056
November 28, 2004 .....	0.031056
November 29, 2004 .....	0.031085
November 30, 2004 .....	0.031056

Dated: December 1, 2004

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

(CBP Dec. 04-43)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR November, 2004

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in CBP Decision 04-39 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Holiday(s): November 11, 2004  
November 25, 2004

## FOREIGN CURRENCIES—Variances from quarterly rates for November 2004 (continued):

## Australia dollar:

November 5, 2004.....	\$0.762000
November 6, 2004 .....	0.762000
November 7, 2004.....	0.762000
November 9, 2004.....	0.761800
November 12, 2004 .....	0.768500
November 13, 2004 .....	0.768500
November 14, 2004 .....	0.768500
November 15, 2004 .....	0.771900
November 16, 2004 .....	0.772800
November 17, 2004 .....	0.783300
November 18, 2004 .....	0.778600
November 19, 2004 .....	0.785200
November 20, 2004 .....	0.785200
November 21, 2004 .....	0.785200
November 22, 2004 .....	0.783900
November 23, 2004 .....	0.786000
November 24, 2004 .....	0.786300
November 25, 2004 .....	0.786300
November 26, 2004 .....	0.790300
November 27, 2004 .....	0.790300
November 28, 2004 .....	0.790300
November 29, 2004 .....	0.785200
November 30, 2004 .....	0.772300

## Canada dollar:

November 5, 2004.....	\$0.834655
November 6, 2004 .....	0.834655
November 7, 2004 .....	0.834655
November 8, 2004 .....	0.838574
November 9, 2004 .....	0.836820
November 10, 2004 .....	0.834934
November 11, 2004 .....	0.834934
November 12, 2004 .....	0.838997
November 13, 2004 .....	0.838997
November 14, 2004 .....	0.838997
November 16, 2004 .....	0.838082
November 17, 2004 .....	0.838574
November 19, 2004 .....	0.838364
November 20, 2004 .....	0.838364
November 21, 2004 .....	0.838364
November 22, 2004 .....	0.844024
November 23, 2004 .....	0.842815
November 24, 2004 .....	0.846525
November 25, 2004 .....	0.846525
November 26, 2004 .....	0.849257
November 27, 2004 .....	0.849257
November 28, 2004 .....	0.849257
November 29, 2004 .....	0.844167
November 30, 2004 .....	0.840195

FOREIGN CURRENCIES—Variances from quarterly rates for November 2004 (continued):

Denmark krone:

November 17, 2004 .....	\$0.175432
November 19, 2004 .....	0.175793
November 20, 2004 .....	0.175793
November 21, 2004 .....	0.175793
November 22, 2004 .....	0.175611
November 23, 2004 .....	0.176146
November 24, 2004 .....	0.177220
November 25, 2004 .....	0.177220
November 26, 2004 .....	0.178888
November 27, 2004 .....	0.178888
November 28, 2004 .....	0.178888
November 29, 2004 .....	0.178894
November 30, 2004 .....	0.178450

Japan yen:

November 17, 2004 .....	\$0.009599
November 18, 2004 .....	0.009594
November 19, 2004 .....	0.009728
November 20, 2004 .....	0.009728
November 21, 2004 .....	0.009728
November 22, 2004 .....	0.009690
November 23, 2004 .....	0.009669
November 24, 2004 .....	0.009714
November 25, 2004 .....	0.009714
November 26, 2004 .....	0.009748
November 27, 2004 .....	0.009748
November 28, 2004 .....	0.009748
November 29, 2004 .....	0.009746
November 30, 2004 .....	0.009705

New Zealand dollar:

November 17, 2004 .....	\$0.708600
November 18, 2004 .....	0.708600
November 19, 2004 .....	0.711800
November 20, 2004 .....	0.711800
November 21, 2004 .....	0.711800
November 22, 2004 .....	0.709800
November 23, 2004 .....	0.713000
November 24, 2004 .....	0.710100
November 25, 2004 .....	0.710100
November 26, 2004 .....	0.718900
November 27, 2004 .....	0.718900
November 28, 2004 .....	0.718900
November 29, 2004 .....	0.716500
November 30, 2004 .....	0.714300

Norway krone:

November 4, 2004 .....	\$0.158020
November 5, 2004 .....	0.158103

## FOREIGN CURRENCIES—Variances from quarterly rates for November 2004 (continued):

## Norway krone: (continued):

November 6, 2004.....	0.158103
November 7, 2004.....	0.158103
November 9, 2004.....	0.157399
November 10, 2004.....	0.157831
November 11, 2004.....	0.157831
November 12, 2004.....	0.159974
November 13, 2004.....	0.159974
November 14, 2004.....	0.159974
November 15, 2004.....	0.159890
November 16, 2004.....	0.160488
November 17, 2004.....	0.160594
November 18, 2004.....	0.159632
November 19, 2004.....	0.160331
November 20, 2004.....	0.160331
November 21, 2004.....	0.160331
November 22, 2004.....	0.160000
November 23, 2004.....	0.160290
November 24, 2004.....	0.161491
November 25, 2004.....	0.161491
November 26, 2004.....	0.163916
November 27, 2004.....	0.163916
November 28, 2004.....	0.163916
November 29, 2004.....	0.164131
November 30, 2004.....	0.162890

## South Africa rand:

November 1, 2004.....	S0.163666
November 3, 2004.....	0.164352
November 4, 2004.....	0.164650
November 5, 2004.....	0.163647
November 6, 2004.....	0.163647
November 7, 2004.....	0.163647
November 12, 2004.....	0.163532
November 13, 2004.....	0.163532
November 14, 2004.....	0.163532
November 15, 2004.....	0.164840
November 16, 2004.....	0.165667
November 17, 2004.....	0.167712
November 18, 2004.....	0.165881
November 19, 2004.....	0.166736
November 20, 2004.....	0.166736
November 21, 2004.....	0.166736
November 22, 2004.....	0.166500
November 23, 2004.....	0.167364
November 24, 2004.....	0.168705
November 25, 2004.....	0.168705
November 26, 2004.....	0.171527
November 27, 2004.....	0.171527
November 28, 2004.....	0.171527

## FOREIGN CURRENCIES—Variances from quarterly rates for November 2004 (continued):

## South Africa rand: (continued):

November 29, 2004 .....	0.173160
November 30, 2004 .....	0.172087

## Sweden krona:

November 16, 2004 .....	\$0.145037
November 17, 2004 .....	0.145226
November 18, 2004 .....	0.144701
November 19, 2004 .....	0.145864
November 20, 2004 .....	0.145864
November 21, 2004 .....	0.145864
November 22, 2004 .....	0.145543
November 23, 2004 .....	0.145992
November 24, 2004 .....	0.147427
November 25, 2004 .....	0.147427
November 26, 2004 .....	0.148989
November 27, 2004 .....	0.148989
November 28, 2004 .....	0.148989
November 29, 2004 .....	0.149238
November 30, 2004 .....	0.148449

## Switzerland franc:

November 4, 2004.....	\$0.843313
November 5, 2004.....	0.847027
November 6, 2004.....	0.847027
November 7, 2004.....	0.847027
November 8, 2004.....	0.847601
November 9, 2004.....	0.846883
November 10, 2004.....	0.848033
November 11, 2004.....	0.848033
November 12, 2004.....	0.852660
November 13, 2004.....	0.852660
November 14, 2004.....	0.852660
November 15, 2004.....	0.848392
November 16, 2004.....	0.851571
November 17, 2004.....	0.858369
November 18, 2004.....	0.855359
November 19, 2004.....	0.863185
November 20, 2004.....	0.863185
November 21, 2004.....	0.863185
November 22, 2004.....	0.860289
November 23, 2004.....	0.863483
November 24, 2004.....	0.869943
November 25, 2004.....	0.869943
November 26, 2004.....	0.878040
November 27, 2004.....	0.878040
November 28, 2004.....	0.878040
November 29, 2004.....	0.877116
November 30, 2004.....	0.875580

FOREIGN CURRENCIES—Variances from quarterly rates for November 2004 (continued):

United Kingdom pound:

November 26, 2004 .....	\$1.896500
November 27, 2004 .....	1.896500
November 28, 2004 .....	1.896500
November 29, 2004 .....	1.894800
November 30, 2004 .....	1.907300

Dated: December 1, 2004

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



*General Notices*

**COPYRIGHT, TRADEMARK, AND  
TRADE NAME RECORDATIONS**

**(No. 11 2004)**

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

SUMMARY: Presented herein are the copyrights, trademarks, and trade names recorded with U.S. Customs and Border Protection during the month of October 2004. The last notice was published in the CUSTOMS BULLETIN on November 17, 2004.

Corrections or updates may be sent to: Department of Homeland Security, U.S. Customs and Border Protection, Office of Regulations and Rulings, IPR Branch, 1300 Pennsylvania Avenue, N.W., Mint Annex, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Delois Johnson, Paralegal, Intellectual Property Rights Branch, (202) 572-8710.

Dated: December 9, 2004.

GEORGE FREDERICK MCCRAY,



REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TNM OR MSK	OWNER NAME	RES
COP0400132	20041101	20241101	TAMAGOTCHI PLUS SHELL	KABUSHIKI KAISHA BANDAI	N
COP0400133	20041112	20241112	PATMONT MOTOR MERKS WARRANTY REGISTRATION	PATMONT MOTOR MERKS	N
COP0400134	20041112	20241112	WWW.GOPED.COM	NATURAL WATERS OF VITI LTD.	N
COP0400135	20041112	20241112	TWO DIMENSIONAL LABEL	NATURAL WATERS OF VITI LTD.	N
COP0400136	20041112	20241112	BLACK INTERIOR LABEL	NATURAL WATERS OF VITI LTD.	N
COP0400137	20041112	20241112	FRONT LABEL ON BLUE BACKGROUND	NATURAL WATERS OF VITI LTD.	N
COP0400138	20041112	20241112	FRONT TRANSPARENT LABEL	NATURAL WATERS OF VITI LTD.	N
COP0400139	20041112	20241112	NAVIA DRATP CHARACTER LABEL	BANDAI CO., LTD.	N
COP0400140	20041112	20241112	NAVIA DRATP GAME MAT	BANDAI CO., LTD.	N
COP0400141	20041124	20241124	THE INCREDIBLES STYL GUIDE	DISNEY ENTERPRISES, INC.	N
COP0400142	20041124	20241124	MR. WONDERFUL	DRAGON TOYS, LTD.	N
SUBTOTAL RECORDATION TYPE 11					
TMK0400980	20041101	20140216	GRIMACE DESIGN	MCDONALD'S CORPORATION	N
TMK0400981	20041101	20120227	STEINEN S AND LOGO	WM. STEINEN MFG. CO.	N
TMK0400982	20041101	20080901	DYNA-COIN	WM. STEINEN MFG. CO.	N
TMK0400983	20041101	20140210	LOCK NUT DESIGN	WYANDOTTE INDUSTRIES, INC.	N
TMK0400984	20041101	20100905	FM (STYLIZED LETTERING)	FRANCK MULLER USA, INC.	N
TMK0400985	20041101	20140817	BORBA	MANUEL M. GARCIA	Y
TMK0400986	20041101	20110604	BLACK WATCH	THE TALARIA COMPANY, LLC.	N
TMK0400987	20041101	20130610	MONTANA	UNITED COMPANY FOR FOOD INDUSTRY	N
TMK0400988	20041101	20140803	SIMPLY AMERICAN & DESIGN	L.C. LICENSING, INC.	N
TMK0400989	20041101	20050711	CAREFREE LIZ CLAIBORNE	L.C. LICENSING, INC.	N
TMK0400990	20041101	20120310	NHL & DESIGN	NATIONAL HOCKEY LEAGUE	N
TMK0400991	20041101	20120310	DESIGN ONLY	NATIONAL HOCKEY LEAGUE	N
TMK0400992	20041101	20101017	STANLEY CUP	NATIONAL HOCKEY LEAGUE	N
TMK0400993	20041101	20110125	NHL	NATIONAL HOCKEY LEAGUE	N
TMK0400994	20041101	20060312	KIRBY	NINTENDO OF AMERICA INC.	N
TMK0400995	20041101	20140406	MITCHELL & NESS	MITCHELL & NESS NOSTALGIA CO.	N
TMK0400996	20041101	20140525	JUICY COUTURE	L.C. LICENSING INC.	N
TMK0400997	20041101	20140907	CHOOSE JUICY	L.C. LICENSING INC.	N
TMK0400998	20041101	20131018	GIANNI VERSACE	GIANNI VERSACE S.P.A.	N
TMK0400999	20041101	20121224	ERIC JAVITS	ERIC M. JAVITS, JR.	N
TMK0401000	20041101	20100222	ERIC JAVITS	ERIC M. JAVITS, JR.	N
TMK0401001	20041101	20110129	WALKERS & DESIGN	ERIC M. JAVITS, JR.	N
TMK0401002	20041112	20110129	WALKERS & DESIGN	ERIC M. JAVITS, JR.	N
TMK0401007	20041112	20121231	THE POWER TO KEEP YOU GOING...AND GOING...	WALKERS, SHORTBREAD, LIMITED	N
TMK0401008	20041112	20130930	EZ CHANGE & GALAXY BEAM OF LIGHT DESIGN	EVEREADY BATTERY COMPANY INC.	N
TMK0401009	20041112	20140329	ENERGIZER & BEAM OF LIGHT W/TAIL DESIGN	EVEREADY BATTERY COMPANY INC.	N
TMK0401010	20041112	20140329	ENERGIZER & BEAM OF LIGHT W/TAIL DESIGN	EVEREADY BATTERY COMPANY INC.	N
TMK0401011	20041112	20140329	CAT & DESIGN	EVEREADY BATTERY COMPANY INC.	N
TMK0401012	20041112	20040230	BEAM OF LIGHT DESIGN MARK	EVEREADY BATTERY COMPANY INC.	N
TMK0401013	20041112	20040230	BATTERY PACKAGE DESIGN	EVEREADY BATTERY COMPANY INC.	N
TMK0401014	20041112	20091130	ADVANCED FORMULA	EVEREADY BATTERY COMPANY INC.	N
TMK0401015	20041112	20091130	ASTAN GOLD	EVEREADY BATTERY COMPANY INC.	N
TMK0401016	20041112	20140705	PAPRIKA	EVEREADY BATTERY COMPANY INC.	N
TMK0401017	20041112	20120723	BRASS LOCK	FORTUNE DYNAMIC INC.	N
TMK0401018	20041112	20140406	BRASS LOCK	LOUIS VUITTON MALLETIER	N

U.S. CUSTOMS SERVICE  
IPR RECORDATIONS ADDED IN NOVEMBER 2004

12/02/2004  
07:39:34

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TNM OR MSK	OWNER NAME	RES
TMK0401019	20041112	20131014	DIAMOND SHAPE FLEUR	LOUIS VUITTON MALLETIER	N
TMK0401020	20041112	20101114	SEXY HAIR	SEXY HAIR CONCEPTS, LLC.	N
TMK0401021	20041112	20100321	RED ENGINE	JAMES I. BOLDIES	N
TMK0401022	20041118	20100425	MARIO KART	NINTENDO OF AMERICA INC.	N
TMK0401023	20041118	20140820	LEE	THE H. D. LEE COMPANY INC.	N
TMK0401024	20041123	20140612	DESIGN	ETIENNE AIGNER, INC.	N
TMK0401025	20041123	20110828	XLOOP AND DESIGN	JAY-Y ENTERPRISE CO., INC.	N
TMK0401026	20041123	20120618	DG	THOMAS & BETTS INTERNATIONAL	N
TMK0401027	20041123	20050427	TY-RAP	FORTUNE DYNAMIC, INC.	N
TMK0401028	20041123	20120122	CLASSIFIED	PUMA AG RUDOLF DASSLER SPORT	N
TMK0401029	20041123	20131108	DESIGN	UCB, SOCIETE ANONYME	N
TMK0401030	20041123	20110529	KEPPRA	BRILLIANT STARS CORPORATION	N
TMK0401031	20041123	20120402	DESIGN	LUX PRODUCTS CORPORATION	N
TMK0401032	20041123	20120820	BRILLIANT STARS	BRILLIANT STARS COLLECTION	N
TMK0401033	20041123	20131130	ASICS	ASICS CORPORATION	N
TMK0401034	20041123	20140814	DESIGN	MEALD'S CORPORATION	N
TMK0401035	20041123	20140826	BEGLIER	BEGLIER INDUSTRIES, LTD.	N
TMK0401036	20041123	20081123	BEGLIER	CARIBBEAN DISTILLERS CORP., LTD.	N
TMK0401037	20041123	20131122	STRONG	ETIENNE AIGNER, INC.	N
TMK0401038	20041123	20140612	DESIGN	MORRIS ROTHENBERG & SON, INC.	N
TMK0401039	20041126	20110508	JR. G. I.	MORRIS ROTHENBERG & SON, INC.	N
TMK0401040	20041126	20081220	ROTHCO AND DESIGN	MORRIS ROTHENBERG & SON, INC.	N
TMK0401041	20041126	20091214	R. ROTHCO & DESIGN	MORRIS ROTHENBERG & SON, INC.	N
TMK0401042	20041126	20091214	ULTRA FORCE	MORRIS ROTHENBERG & SON, INC.	N
TMK0401043	20041129	20100808	P. AND DESIGN	MORRIS ROTHENBERG & SON, INC.	N
TMK0401044	20041129	20120730	P. AND DESIGN	MORRIS ROTHENBERG & SON, INC.	N
TMK0401045	20041129	20120820	P. AND DESIGN	MORRIS ROTHENBERG & SON, INC.	N
TMK0401046	20041129	20140203	BABY PHAT	PHAT FASHIONS LLC	N
TMK0401047	20041129	20120326	BABY PHAT	PHAT FASHIONS LLC	N
TMK0401048	20041129	20130715	BABY PHAT GIRLZ	PHAT FASHIONS LLC	N
TMK0401049	20041129	20120402	BABY PHAT	PHAT FASHIONS LLC	N
TMK0401050	20041129	20120108	P. AND DESIGN	PHAT FASHIONS LLC	N
TMK0401051	20041129	20120326	DESIGN	PHAT FASHIONS LLC	N
TMK0401052	20041129	20120212	DESIGN	PHAT FASHIONS LLC	N
TMK0401053	20041129	20120219	BABY PHAT AND DESIGN	PHAT FASHIONS LLC	N
TMK0401054	20041129	20120212	BABY PHAT	PHAT FASHIONS LLC	N
TMK0401055	20041129	20140106	P. AND DESIGN	PHAT FASHIONS LLC	N
TMK0401056	20041129	20140731	CLEVELAND INDIANS	CLEVELAND INDIANS BASEBALL CO.	N

SUBTOTAL RECORDATION TYPE 72

TNM0400005 20041116 99999999 JOY ENTERPRISES N

SUBTOTAL RECORDATION TYPE 1

TOTAL RECORDATIONS ADDED THIS MONTH 84

**AGENCY INFORMATION COLLECTION ACTIVITIES:  
USER FEES**

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

**ACTION:** Proposed collection; comments requested.

**SUMMARY:** The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: User Fees. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (69 FR 56448) on September 21, 2004, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

**DATES:** Written comments should be received on or before January 13, 2005.

**ADDRESSES:** Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Treasury Desk Officer, Washington, D.C. 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395-6974.

**SUPPLEMENTARY INFORMATION:**

The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, in-

- cluding the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
  - (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Title:** User Fees

**OMB Number:** 1651-0052

**Form Number:** Form CBP-339

**Abstract:** The information collected on the User Fee Form CBP-339 is necessary in order for CBP to account for, and track user fees from private and commercial vessels, private aircraft, operators of commercial trucks, and passenger and freight railroad cars entering the United States and recipients of certain dutiable mail entries for certain official services.

**Current Actions:** This submission is being submitted to extend the expiration date with a change in the burden hours.

**Type of Review:** Extension (with change)

**Affected Public:** Businesses or other for-profit.

**Estimated Number of Respondents:** 45,000

**Estimated Time Per Respondent:** 5-10 minutes

**Estimated Total Annual Burden Hours:** 4,166

**Estimated Total Annualized Cost on the Public:** \$62,490

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.2.C, Washington, D.C. 20229, at 202-344-1429.

Dated: December 7, 2004

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

[Published in the Federal Register, December 14, 2004 (69 FR 74532)]

**[CBP Dec. 04-41]**

**APPLICATION FOR RECORDATION OF TRADE  
NAME: "PRECISION INSTRUMENT MANIFOLDS."**

**ACTION:** Notice of Application for Recordation of Trade Name.

**SUMMARY:** Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for recordation under section

42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "PRECISION INSTRUMENT MANIFOLDS," used by DYNAMIC Controls & Sensors, Inc., a corporation organized under the laws of the State of Texas, located at P.O. Box 5009 Kingwood, Texas 77325.

The application states that the trade name is used in connection with valves.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

**DATE:** Comments must be received on or before February 14, 2005.

**ADDRESS:** Written comments should be addressed to U.S. Customs and Border Protections, Attention: Office of Regulations and Rulings, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Mint Annex), Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Delois P. Johnson, Paralegal, Intellectual Property Rights Branch, at (202) 572-8703.

Dated: December 9, 2004

GEORGE FREDERICK MCCRAY, ESQ.,  
*Chief,*  
*Intellectual Property Rights Branch.*

[Published in the Federal Register, December 15, 2004 (69 FR 75078)]



DEPARTMENT OF HOMELAND SECURITY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS.

*Washington, DC, December 15, 2004,*

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

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

**19 CFR PART 177**

**REVOCAION OF RULING LETTER AND REVOCAION OF  
TREATMENT RELATING TO CLASSIFICATION OF  
“CHOCOLATE LENTILS”**

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

**ACTION:** Notice of revocation of ruling letter and revocation of treatment relating to the classification of chocolate lentils.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) is revoking a ruling letter pertaining to the tariff classification of chocolate lentils and revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed revocation was published in the *Customs Bulletin* of November 3, 2004, Vol. 38, No. 45. No comments were received.

**EFFECTIVE DATE:** Merchandise entered or withdrawn from warehouse for consumption on or after February 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Peter T. Lynch, General Classification Branch, 202–572–8778.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published on November 3, 2004, in the *Customs Bulletin*, Volume 38, Number 45, proposing to revoke NY I86136, dated September 25, 2002, pertaining to the tariff classification of chocolate lentils under the Harmonized Tariff Schedule of the United States (HTSUS). No comments were received in reply to the notice.

In NY I86136, dated September 25, 2002, the classification of a product commonly referred to as chocolate lentils was determined to be in subheading 1806.90.9090, HTSUS, which provides for Chocolate and other food preparations containing cocoa: other: other: other . . . other. Since the issuance of that ruling, CBP has had a chance to review the classification of this merchandise and has determined that classification is in error and that the product is properly classified in subheading 1806.90.4900, HTSUS, which provides for Chocolate and other food preparations containing cocoa: other: other: other: articles containing over 65 percent by dry weight of sugar described in additional U.S. Note 2 to chapter 17 . . . other.

As stated in the proposal notice, this revocation 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 have advised CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. This treatment may, among other reasons, be

the result of the importer's reliance on a ruling issued to a third party, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or CBP's previous interpretation of the HTSUS. Any person involved in substantially identical transactions should have advised CBP during the notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or their agents for importations of merchandise subsequent to the effective date of this notice.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY I86136, and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letter (HQ) 966723 (*see* "Attachment" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: December 10, 2004

John Elkins for MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

Attachment

DEPARTMENT OF HOMELAND SECURITY,  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 966723  
December 10, 2004  
CLA-2 RR: CR:GC 966723ptl  
CATEGORY: Classification  
TARIFF NO.: 1806.90.4900

MR. RICHARD R. WOHLRAB  
LE COPPERSMITH, INC.  
*AIOP Bldg. A3W*  
*145 Hook Creek Blvd.*  
*Valley Stream, NY 11581*

RE: Classification of Small Chocolate Lentils, NY I86136 revoked

DEAR MR. WOHLRAB:

New York Ruling (NY) I86136, was issued to you on September 25, 2002, by the Customs and Border Protection (CBP) National Commodity Specialist Division, in New York, concerning the classification of small chocolate lentils under the Harmonized Tariff Schedule of the United States Anno-



tated (HTSUSA). That ruling classified the lentils in subheading 1806.90.9090, HTSUSA, which provides for chocolate and other food preparations containing cocoa: other: other: other: . . . other. Since that ruling was issued, CBP has determined that the classification provided therein is incorrect. This ruling provides the correct classification for the chocolate lentils and the reasoning supporting the classification.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY I86136 was published on November 3, 2004, in the Customs Bulletin, Volume 38, Number 45. No comments were received in response to that notice.

**FACTS:**

Information provided indicates that the goods referred to as “Small Chocolate Lentils” are small lentil-shaped articles with chocolate centers which are coated with a hard glaze of different colors. The product will be used by bakeries as decorations on cakes and pastries, and inside cookies. The product’s ingredients are said to be: sugar, 68 percent; cocoa butter, 10 percent; cocoa liquor, 9 percent; whole milk powder, 9 percent; whey powder, 3 percent. A variety of additional ingredients are said to make up a total of approximately 1 percent of the product. The product will be packaged in 37 lb. cartons for importation.

**ISSUE:**

What is the classification of small chocolate lentils to be used as decorations on cakes and pastries and inside cookies?

**LAW AND ANALYSIS:**

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

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 the official interpretation of the Harmonized System at the international level. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUS subheadings under consideration are as follows:

<b>1806</b>	Chocolate and other food preparations containing cocoa:
	* * *
1806.90	Other:
	Other:
	Other:
	Other:

		Articles containing over 65 percent by dry weight of sugar described in additional U.S. note 2 to chapter 17:
1806.90.4500		Described in additional U.S. note 7 to chapter 17 and entered pursuant to its provisions
1806.90.4900		Other 2/ .
	* * *	
1806.90.90		Other
	* * *	
1806.90.9090		Other

2/ See subheadings 9904.17.17–9904.17.48.

The articles being classified are small edible chocolate objects which are to be used in bakeries as decorations on cakes and pastries or ingredients in cookies. From information provided regarding the product’s ingredients, we know the goods are said to contain 68 percent sugar. With this amount of sugar in the product, we must determine whether it is described by Additional U.S. Note 2 to Chapter 17.

Additional U.S. Note 2 to Chapter 17, reads as follows:

2. For the purposes of this schedule, the term “articles containing over 65 percent by dry weight of sugar described in additional U.S. note 2 to chapter 17” means articles containing over 65 percent by dry weight of sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, capable of being further processed or mixed with similar or other ingredients, and not prepared for marketing to the ultimate consumer in the identical form and package in which imported.

Additional U.S. Note 2, Section IV, HTSUS, defines the terms of Additional U.S. Notes 2 and 3, Chapter 17, HTSUS, as follows:

For the purposes of this section, unless the context otherwise requires—  
 (a) the term “percent by dry weight” means the sugar content as a percentage of the total solids in the product;

(b) the term “capable of being further processed or mixed with similar or other ingredients” means that the imported product is in such condition or container as to be subject to any additional preparation, treatment or manufacture or to be blended or combined with any additional ingredient, including water or any other liquid, other than processing or mixing with other ingredients performed by the ultimate consumer prior to consumption of the product;

(c) the term “prepared for marketing to the ultimate consumer in the identical form and package in which imported” means that the product is imported in packaging of such sizes and labeling as to be readily identifiable as being intended for retail sale to the ultimate consumer without any alteration in the form of the product or its packaging; and

(d) the term “ultimate consumer” does not include institutions such as hospitals, prisons and military establishments or food service establishments such as restaurants, hotels, bars or bakeries.

In HQ 960694, dated March 20, 1998, CBP (then "Customs") discussed the classification of white dipping icing, donut glaze and chocolate dipping icing. The products all contained over 65 percent by dry weight sugar, and were imported in ready-to-use condition. The products were used, as imported, to frost or glaze donuts or other bakery goods by dipping the baked goods in the icing or glaze.

In summarizing its decision that the icing and glazing products were covered by the description of Additional U.S. Note 2, HQ 960694 stated: "The toppings and the 'untopped' donuts, pastries, or cakes are components combined to make finished goods. Therefore, we find that the toppings are capable of being combined with additional ingredients, to wit, donuts, pastries, or cakes."

The chocolate lentils classified in NY I86136 are decorative components that will be combined by commercial bakers with other ingredients (cakes, pastries and cookie dough). Accordingly, they are goods described by Additional U.S. Note 2 to Chapter 17. As such they should not have been classified in subheading 1806.90.9090, HTSUSA, as other products other than those described by the Additional U.S. Note. The chocolate lentils are properly classified in subheading 1806.90.4900, HTSUSA, the subheading for chocolate goods described by Additional U.S. Note 2 to Chapter 17.

**HOLDING:**

Small chocolate lentils, containing 68 percent sugar, that are used by bakeries as decorations on cakes, pastries and inside cookies are classified in subheading 1806.90.4900, HTSUSA, which provides for: Chocolate and other food preparations containing cocoa: Other: Other: Other: Other: Articles containing over 65 percent by dry weight of sugar described in additional U.S. note 2 to chapter 17: Other. The duty rate will be 37.2 cents per kilogram plus 6 percent *ad valorem*. In addition, products classified in subheading 1806.90.4900, HTSUSA, will be subject to additional duties based on their value, as described in subheadings 9904.17.17 to 9904.17.48, HTSUS. Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY I86136, dated September 25, 2002, is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

John Elkins for MYLES B. HARMON,  
*Director,*  
*Commercial Rulings Division.*

**REVOCATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE CLASSIFICATION OF MEN'S SHIRTS MADE OF 100 PERCENT WOVEN BAMBOO FABRIC; NOT TRANSFORMED TO A MAN-MADE FABRIC**

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

**ACTION:** Notice of the revocation of a tariff classification ruling letter and revocation of any treatment relating to the classification of men's shirts made of 100 percent woven bamboo fabric.

**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 CBP is revoking one ruling letter relating to the tariff classification of men's shirts under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). Similarly, CBP is revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed action was published on November 3, 2004, in the *Customs Bulletin* in Vol. 38, Number 45. No comments were received in response to this notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after February 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ann Segura Minardi, Textiles Branch, (202) 572-8822.

**SUPPLEMENTARY INFORMATION:**

Background

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

ter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin* on November 3, 2004, proposing the revocation of one ruling letter pertaining to the tariff classification of men's shirts. No comments were received in response to this notice.

As stated in the notice of proposed revocation, although CBP is specifically referring to the revocation of New York Ruling Letter (NY) K80132, dated October 30, 2003, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should have advised CBP during the notice period.

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

In NY K80132, CBP ruled that two men's shirts, identified as Styles BD12856-03 and BD 12640-05 were properly classified in subheading 6205.30.2070, HTSUSA, which provides for "Men's or boys' shirts: Of man-made fibers: Other: Other: Other: Other: Men's." Since the issuance of this ruling, CBP has reviewed the classification of these items and has determined that the cited ruling is in error.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY K80132, dated October 30, 2003, and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letter (HQ) 967187 (Attachment). However, HQ 967187 is not applicable to garments constructed of 100 percent bamboo fabric where the fiber has been transformed to a man-made material. Additionally, pursuant to 19

U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: December 14, 2004

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

[Attachment]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 967187  
December 14, 2004  
CLA-2 RR:CR:TE 967187 ASM  
CATEGORY: Classification  
TARIFF NO.: 6205.90.4040

SAMUEL FOCARINO, PRESIDENT  
COMET CUSTOMS BROKERS INC.  
*420 West Merrick Road*  
*Valley Stream, NY 11580*

RE: Request for reconsideration and Revocation of NY K80132; classification of men's shirts made of 100 percent woven bamboo fabric; not transformed to a man-made fabric

DEAR MR. FOCARINO:

This is in response to a letter, dated February 27, 2004, that you submitted on behalf of your client, Martin Design Group, requesting reconsideration of Customs and Border Protection (CBP) New York Ruling Letter (NY) K80132, dated October 30, 2003, which classified men's shirts under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). We have reviewed this ruling and determined that the classification provided for this merchandise is incorrect. This ruling revokes NY K80132 by providing the correct classification under the HTSUSA. Fabric samples were submitted to this office for examination.

Pursuant to section 625(c), Tariff Act of 1930, 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, 2188 (1993) notice of the proposed revocation of NY K80132 was published on November 3, 2004, in Vol. 38, No. 45, of the *Customs Bulletin*. No comments were received in response to this notice.

FACTS:

NY K80132, identified two men's shirts: Styles BD12856-03 and BD12640-05. Style BD12856-03 was described as a solid sand colored shirt, featuring a spread collar; short sleeves, a left over right full front opening secured by seven buttons, a left chest pocket, and a curved hemmed bottom. Style BD12640-05 was described as a white shirt, solid in color, featuring a

button down collar, short sleeves, a left over right full front opening secured by seven buttons, a left chest pocket, and a curved hemmed bottom.

In NY K80132, the subject garments were both classified in subheading 6205.30.2070, HTSUSA, which provides for “Men’s or boys’ shirts: Of man-made fibers: Other: Other: Other: Other: Men’s”. Your client disagreed with this classification and has always maintained that the fabric is 100 percent woven bamboo fiber, which would make the shirts classifiable in subheading 6205.90.4040, HTSUSA, which provides for “Men’s or boys’ shirts: Of other textile materials: Other, Other.”

ISSUE:

What is the proper classification for the merchandise?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the heading and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Upon receiving the request for reconsideration of NY K80132, the subject garments were sent to the CBP Office of Laboratories and Scientific Services for fiber analysis. The CBP laboratory has now confirmed that the shirts are made of vegetable fibers other than cotton. Furthermore, the CBP laboratory report included a definitive statement that the shirts were not made of rayon fiber.

In view of the foregoing, we are now of the opinion that the shirts are constructed of fabric which is formed from 100 percent bamboo fibers and are properly classified in subheading 6205.90.4040, HTSUSA, which provides for men’s shirts “. . . Of other textile materials.” However, it is important to note that this ruling is not applicable to garments constructed of 100 percent bamboo fabric where the fiber has been transformed to a man-made material.

HOLDING:

NY K80132, dated October 30, 2003, is hereby revoked.

The subject merchandise, identified as men’s shirts (Styles BD12856–03 and BD12640–05), is correctly classified in subheading 6205.90.4040, HTSUSA, which provides for “Men’s or boys’ shirts: Of other textile materials: Other, Other.” The general column one duty rate is 2.8 percent *ad valorem*. The textile category is 840.

The designated textile and apparel category may be subdivided into parts. If so, the visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest your client

check, close to the time of shipment, the Textile Status Report for Absolute Quotas, which is available on the CBP Bulletin Website at [www.cbp.gov](http://www.cbp.gov).

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

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

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

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### **REVOCATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE CLASSIFICATION OF TWO MODIFIED STARCH PRODUCTS**

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

**ACTION:** Notice of the revocation of a tariff classification ruling letter and revocation of any treatment relating to the classification of two modified starch products, hereinafter identified as “Cato® Size 52A” and “Cato® 15A”.

**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 CBP is revoking one ruling letter relating to the tariff classification of Cato® Size 52A and Cato® 15A under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). Similarly, CBP is revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed action was published on November 3, 2004, in the *Customs Bulletin* in Vol. 38, Number 45. No comments were received in response to this notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after February 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ann Segura Minardi, Textiles Branch, (202) 572-8822.



**SUPPLEMENTARY INFORMATION:**

## Background

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin* on November 3, 2004, proposing to revoke one ruling letter pertaining to the tariff classification of Cato® Size 52A and Cato® 15A. No comments were received in response to this notice.

As stated in the notice of proposed revocation, although CBP is specifically referring to the revocation of New York Ruling Letter (NY) G81194, dated November 3, 2000, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should have advised CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP intends to revoke any treatment previously accorded by CBP 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, CBP personnel applying a ruling of a third party to im-

portations of the same or similar merchandise, or the importer's or CBP's previous interpretation of the HTSUSA. Any person involved in substantially identical transactions should have advised CBP during the notice period. An importer's failure to advise CBP of substantially identical merchandise or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY G81194, CBP ruled that Cato® Size 52A and Cato® 15A are properly classified in subheading 3809.92.5000, HTSUSA, which provides for "Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included: Other: Of a kind used in the paper or like industries: Other". Since the issuance of this ruling, CBP has reviewed the classification of these items and has determined that the cited ruling is in error.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY G81194, dated November 3, 2000, and any other ruling not specifically identified, to reflect the proper classification of the merchandise according to the analysis in Headquarters Ruling Letter 966632, which is an "Attachment" to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: December 14, 2004

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

[Attachment]

DEPARTMENT OF HOMELAND SECURITY.  
BUREAU OF CUSTOMS AND BORDER PROTECTION,  
HQ 966632  
December 14, 2004  
CLA-2 RR:CR:TE 966632 ASM  
CATEGORY: Classification  
TARIFF NO.: 3505.10.0040

MR. PAUL GIGUERE  
SANDLER, TRAVIS & ROSENBERG, P.A.  
1300 Pennsylvania Ave., NW  
Washington, D.C. 20004-3002

RE: Revocation of NY G81194; The tariff classification of Cato® Size 52A and Cato® 15A; Modified starches

DEAR MR. GIGUERE:

This is in regard to Customs and Border Protection (CBP) New York Ruling Letter (NY) G81194, issued to you on November 3, 2000, on behalf of your client, Smurfit Carton De Colombia, S.A. We have reviewed this ruling and determined that the classification provided for this merchandise is incorrect. This ruling revokes NY G81194 by providing the correct classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) for two products identified as Cato® Size 52A and Cato® 15A.

Pursuant to section 625(c), Tariff Act of 1930, 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, 2188 (1993) notice of the proposed revocation of NY G81194 was published on November 3, 2004, in Vol. 38, No. 45, of the *Customs Bulletin*. No comments were received in response to this notice.

FACTS:

Cato® Size 52A and Cato® 15A are chemically modified starches. Cato® Size 52A contains an added hydrocarbon defoamer and is used as a surface sizing agent in the papermaking industry. Cato® 15A contains an added phosphorous compound and silicon and is of a kind used in acid papermaking processes. However, the added defoamer, phosphorous, and/or silicon compounds make-up less than 1 percent of each product.

In NY G81194, CBP classified Cato® Size 52A and Cato® 15A in subheading 3809.92.5000, HTSUSA, which provides for "Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included: Other: Of a kind used in the paper or like industries: Other".

ISSUE:

What is the proper classification for the merchandise?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the heading and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmo-

nized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Both products, identified as Cato® Size 52A and Cato® 15A, are cationic corn starches, i.e., a starch which has been chemically modified so that the cationic charge ensures close binding with anion cellulose fibers. Cationic starches are made via etherification (or esterification) of their hydroxyl groups with quaternary ammonium groups combined with phosphating of starches. Although many of the cationic starches are used primarily in paper manufacturing, they can also be used as textile sizing, emulsification, stabilization (for colloid solutions, etc.) by their functional properties. In addition, they can be used as a finished sizing or in combination with other ingredients for the sizing.

Heading 3505, HTSUSA, provides for:

Dextrins and other modified starches (for example, pregelatinized or esterified starches); glues based on starches, or on dextrins or other modified starches.

The EN for heading 3505, states that the heading covers, “. . . modified starches, i.e., products obtained by the transformation of starches through the action of heat, chemicals (e.g., acids, alkalis) or diastase, and starch modified, e.g., by oxidation, esterification or etherification.” In addition, EN 35.05(4) specifically notes that the heading covers esterified starches which include starch acetates used principally in the paper industries. However, EN 35.05(d) states that the heading does not cover “Prepared glazings and dressings (based on starches or dextrins) of a kind used in the paper, textile, leather or like industries (**heading 38.09**).”

Heading 3809, HTSUSA, provides for:

Finishing agents, dye carriers to accelerate the dyeing or fixing of dye-stuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included.

EN 38.09(B) describes products and preparations used in the paper industries as follows: “(2) **Sizing agents or sizing additives** used in paper processing to improve printability, smoothness and gloss and to impart writing properties to the paper. These preparations may be based on . . . starch . . .”. Exclusionary language set forth at EN 38.09(e) specifically notes that the heading does not cover “Dextrins and other modified starches, and glues based on starches or on dextrins or other modified starches (**heading 35.05**).”

With respect to both Cato® Size 52A and Cato® 15A, the starch constituent predominates in both products because the defoamer or phosphorous/silicon compounds are added in very small amounts relative to the starch. As we have previously noted, these added compounds make-up less than 1 percent of each product. Furthermore, based on a review of laboratory findings for Cato® Size 52A and Cato® 15A, these products are cationic starches which have been chemically modified by etherification or esterification. Thus, we are now of the opinion that these products have been manufactured to function as “modified starches”. As such, Heading 3505, HTSUSA,

specifically provides for modified starches. In addition, EN 35.05(4) notes that the heading covers esterified starches that are principally used in the paper industries. It is also important to note that heading 3809, HTSUSA, is a basket provision that generally provides for finishing agents, dye carriers and other products and preparations of a kind used in the paper industry which may be based on starch (among other things), and are “*not elsewhere specified or included*” (emphasis supplied). Since the Cato® Size 52A and Cato® 15A papermaking products are specifically described in heading 3505, HTSUSA, there is no occasion to consider classification in heading 3809, HTSUSA.

We note, the World Customs Organization (WCO), Harmonized System Committee (HSC), at its 31<sup>st</sup> Session, decided to classify Cato® Size 52A and Cato® 15A in heading 35.05, HTS, which provides for, among other things, “Dextrins and other modified starches . . .”. In making this decision, the HSC noted findings made by the WCO, Scientific Sub-Committee (SSC) that certain added ingredients to these products, i.e., defoamer, phosphorus, and silicon, did not change the character of the goods as modified starches, but were merely included as processing aids. See Opinion No. 3505.10/1 and 2, of the WCO *Compendium of Classification Opinions*.

As stated in T.D. 89–80, decisions in the *Compendium of Classification Opinions* should be treated in the same manner as the EN, i.e., while neither legally binding nor dispositive, they constitute the official interpretation of the Harmonized System in consideration of a particular issue placed before the HSC. TD 89–80 further states that EN’s and decisions in the *Compendium of Classification Opinions* “should receive considerable weight.”

In view of the foregoing, we are now of the opinion that the subject products, Cato® Size 52A and Cato® 15A, are properly classified in heading 3505, HTSUSA, which provides for “. . . other modified starches”.

**HOLDING:**

NY G81194, dated November 3, 2000, is hereby revoked.

The subject merchandise is correctly classified in subheading 3505.10.0040, HTSUSA, which provides for, “Dextrins and other modified starches (for example, pregelatinized or esterified starches); glues based on starches, or on dextrins or other modified starches: Dextrins and other modified starches, Other: Derived from corn (maize) starch.” The general column one duty rate is 0.7 cents/kg.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification), your client should contact the local CBP office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

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

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

