

# U.S. Customs and Border Protection

**Docket No. USCBP-2006-0037**

## **EXPANSION OF GLOBAL ENTRY PILOT PROGRAM**

**AGENCY:** U.S. Customs and Border Protection; DHS.

**ACTION:** General notice.

**SUMMARY:** U.S. Customs and Border Protection (CBP) is currently conducting an international trusted traveler pilot program, referred to as Global Entry, at seven airports. This document announces the expansion of the pilot to include thirteen additional airports.

**DATES:** The exact starting date for each airport location will be announced on the website at [www.globalentry.gov](http://www.globalentry.gov).

**FOR FURTHER INFORMATION CONTACT:** Fiorella Michelucci, Office of Field Operations, (202) 344-2564, or Daniel Tanciar, Office of Field Operations, (202) 344-2818 (not toll-free numbers).

**ADDRESSES:** You may submit comments, identified by “USCBP-2006-0037,” by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Border Security Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, Mint Annex, 799 9th Street, NW, Washington, DC 20229.

**Instructions:** All submissions received must include the agency name, document title, and docket number (USCBP-2006-0037) for this notice. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**Docket:** For access to the docket to read background documents or comments received go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW, 5th Floor, Washington, DC. Arrange-

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

Applications for the Global Entry pilot are available through the Global On-Line Enrollment System (GOES) at [www.globalentry.gov](http://www.globalentry.gov). Applications must be completed and submitted electronically.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

CBP is currently conducting a pilot program called Global Entry, which began on June 6, 2008. This pilot was announced in a notice published in the **Federal Register** (73 FR 19861) on April 11, 2008.

The Global Entry pilot program allows for the expedited clearance of pre-approved, low-risk travelers into the United States. The initial **Federal Register** notice published on April 11, 2008 contained a detailed description of the program, the eligibility criteria and the application and selection process, and the initial airport locations: John F. Kennedy International Airport, Jamaica, New York, Terminal 4 (JFK); the George Bush Intercontinental Airport, Houston, Texas (IAH); and the Washington Dulles International Airport, Sterling, Virginia (IAD). CBP chose these initial airports due to the large numbers of travelers that arrive at those locations from outside the United States.

On August 13, 2008, in a notice published in the **Federal Register** (73 FR 47204), CBP announced that the pilot was being expanded to include all terminals at JFK and four additional airports: Los Angeles International Airport, Los Angeles, California (LAX); Hartsfield-Jackson Atlanta International Airport, Atlanta, Georgia (ATL); Chicago O'Hare International Airport, Chicago, Illinois (ORD); and Miami International Airport, Miami, Florida (MIA).

Initially, only U.S. citizens, U.S. nationals, and U.S. Lawful Permanent Residents (LPRs) were eligible to participate in the Global Entry pilot. However, as explained in the April 11, 2008 Federal Register notice, CBP has been working with other countries to recognize comparable programs operated by these countries and, as these arrangements are finalized, CBP will expand its eligibility criteria. The April 11 notice stated that such expansions of the pilot would be announced by publication in the **Federal Register**. On April 23, 2009, CBP published a notice in the **Federal Register** (74 FR 18586) that expanded eligibility for participation in the Global Entry pilot to include citizens of the Netherlands who participate in Privium, an expedited travel program in the Netherlands, provided they otherwise satisfy the requirements for participation in the Global Entry pilot program. Pursuant to the reciprocal arrangement with the Government of the Netherlands, these applicants are eligible for participation in the Global Entry pilot upon successful completion of a thorough risk assessment by both CBP and the Gov-

ernment of the Netherlands. Pursuant to the reciprocal arrangement, U.S. citizens who participate in the Global Entry pilot will have the option to apply for participation in Privium. For a more detailed discussion about the expansion of applicant eligibility to include citizens of the Netherlands, please refer to the April 23, 2009 **Federal Register** notice.

### **Operations**

The Global Entry pilot project offers pilot participants expedited entry into the United States at any of the designated airport locations by using automated kiosks located in the Federal Inspection Services (FIS) area of each airport. Global Entry uses fingerprint biometrics technology to verify a participant's identity and confirm his or her status as a participant.

After arriving at the FIS area, participants proceed directly to the Global Entry kiosk. A sticker affixed to the participant's passport at the time of acceptance in Global Entry will provide visual identification that the individual can be referred to the kiosk. Global Entry participants need not wait in the regular passport control primary inspection lines.

After arriving at the kiosk, participants activate the system by inserting into the document reader either a machine-readable passport or a machine-readable U.S. permanent resident card. On-screen instructions guide participants to provide fingerprints electronically. These fingerprints are compared with the fingerprint biometrics on file to validate identity and confirm that the individual is a member of the program. Participants are also prompted to look at the camera for a digital photograph.

When the procedures at the kiosk have been successfully completed, which also involves responding to several customs declaration questions by use of a touch-screen, participants are issued a transaction receipt. This receipt must be provided along with the passport or LPR card to the CBP Officer at the exit control area who will examine and inspect these documents. CBP Officers stationed in booths next to the kiosk lanes also oversee activities at the kiosk.

### **Declarations**

When using the Global Entry kiosks, Global Entry participants are required to use the kiosk to declare all articles being brought into the U.S. pursuant to 19 CFR 148.11.

If a Global Entry participant declares any of the following, the kiosk redirects that user to the head of the line at the nearest, open passport control, primary inspection station:

- (a) Commercial merchandise or commercial samples, or items that exceed the applicable personal exemption amount;

- (b) More than \$10,000 in currency or other monetary instruments (checks, money orders, etc.), or foreign equivalent in any form; or
- (c) Restricted/prohibited goods, such as agricultural products, firearms, mace, pepper spray, endangered animals, birds, narcotics, fireworks, Cuban goods, and plants.

Global Entry participants may also be subject to further examination and inspection as determined by CBP Officers at any time during the arrival process.

For a more detailed description of the Global Entry pilot program, please refer to the April 11, 2008 **Federal Register** notice, 73 FR 19861.

### **Expansion to Additional Airports**

This notice announces that the pilot will be expanded to include thirteen additional airports. As with the choice of initial airports, CBP is expanding the Global Entry pilot to include those airports that service the largest numbers of travelers arriving from outside the United States.

### **New Airports and Dates of Operation**

CBP will expand the Global Entry pilot to the following airports: Newark Liberty International Airport, Newark, New Jersey (EWR); San Francisco International Airport, San Francisco, California (SFO); Orlando International Airport, Orlando, Florida (ORD); Detroit Metropolitan Wayne County Airport, Romulus, Michigan (DET); Dallas Fort Worth International Airport, Dallas, Texas (DFW); Honolulu International Airport, Honolulu, Hawaii (HNL); Boston - Logan International Airport, Boston, Massachusetts (BOS); Las Vegas - McCarran International Airport, Las Vegas, Nevada (LAS); Sanford - Orlando International Airport, Sanford, Florida (SSB); Seattle - Tacoma International Airport-SEATAC, Seattle, Washington (STT); Philadelphia International Airport, Philadelphia, Pennsylvania (PHL); San Juan - Luis Munos Marin International Airport, San Juan, Puerto Rico (SAJ) and Ft. Lauderdale Hollywood International Airport, Fort Lauderdale, Florida (FLL). The exact dates of the expansion of the Global Entry pilot to the individual airports will be announced at [www.globalentry.gov](http://www.globalentry.gov).

All other aspects of the program as described in the previous notices are still in effect.

Dated: August 4, 2009

THOMAS S. WINKOWSKI  
*Assistant Commissioner*  
*Office of Field Operations*

**AGENCY INFORMATION COLLECTION ACTIVITIES:  
Exportation of Used Self-Propelled Vehicles**

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

**ACTION:** 30-Day notice and request for comments; Extension of an existing information collection: 1651-0054

**SUMMARY:** U.S. 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: Exportation of Used Self-Propelled Vehicles. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no 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** (74 FR 16227) on April 9, 2009, 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 September 3, 2009.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-5806.

**SUPPLEMENTARY INFORMATION:**

U.S. 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 (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, including 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 techniques or other forms of information.

**Title:** Exportation of Used-Propelled Vehicles

**OMB Number:** 1651-0054

**Form Number:** None

**Abstract:** 19 U.S.C. 1627 requires the exporter of a used self-propelled vehicle to present both the vehicle and a document describing it (which includes the vehicle identification number) to CBP prior to lading if the vehicle is to be transported by vessel or aircraft, or prior to export if the vehicle is transported by rail, highway, or under its own power. This information helps CBP ensure that stolen vehicles are not exported from the U.S.

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

**Type of Review:** Extension (without change)

**Affected Public:** Individuals

**Estimated Number of Respondents:** 750,000

**Estimated Number of Total Annual Responses:** 750,000

**Estimated Time Per Response:** 10 minutes

**Estimated Total Annual Burden Hours:** 125,000

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-1177, at 202-325-0265.

Dated: July 29, 2009

TRACEY DENNING  
*Agency Clearance Officer*  
*Customs and Border Protection*

**AGENCY INFORMATION COLLECTION ACTIVITIES:  
Petroleum Refineries in Foreign Trade Sub-zones**

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

**ACTION:** 30-Day notice and request for comments; Extension of an existing information collection: 1651-0063

**SUMMARY:** U.S. 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: Petroleum Refineries in Foreign Trade Sub-zones. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no 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** (74 FR 16228) on April 9, 2009, 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 September 3, 2009.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-5806.

**SUPPLEMENTARY INFORMATION:**

U.S. 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 (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, including 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 techniques or other forms of information.

**Title:** Petroleum Refineries in Foreign Trade Sub-zones

**OMB Number:** 1651-0063

**Form Number:** None

**Abstract:** This is a record keeping requirement that involves data necessary to account for admissions into, and operations occurring within each phase of the refining operation for all withdrawals of crude petroleum from Foreign Trade Sub-zones.

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

**Type of Review:** Extension (without change)

**Affected Public:** Businesses

**Estimated Number of Record Keepers:** 81

**Estimated Annual Time Per Record Keeper:** 1000 hours

**Estimated Total Annual Burden Hours:** 81,000 hours

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-1177, at 202-325-0265.

Dated: July 29, 2009

TRACEY DENNING  
*Agency Clearance Officer*  
*Customs and Border Protection*

Published in the Federal Register, August 4, 2009 [(74 FR 38664)]



**PROPOSED MODIFICATION OF RULING LETTER AND  
PROPOSED REVOCATION OF TREATMENT RELATING TO  
THE TARIFF CLASSIFICATION OF CERTAIN BASE METAL  
OFFICE ARTICLES**

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

**ACTION:** Notice of proposed modification of a ruling letter and treatment relating to tariff classification of base metal office articles.

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

**DATES:** Comments must be received on or before September 19, 2009.

**ADDRESSES:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 799 9th Street, N.W. 5th Floor, Washington, D.C. 20229–1179. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

**FOR FURTHER INFORMATION CONTACT:** Claudia Garver, Tariff Classification and Marking Branch: (202) 325–0024.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 8, 1993 Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility.**” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations.

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

Pursuant to section 625 (c)(1), Tariff Act of 1930, as amended (19 U.S.C. §1625 (c)(1)), this notice advises interested parties that CBP intends to modify a ruling letter pertaining to the tariff classification of prong fasteners. Although in this notice, CBP is specifically referring to the modification of New York Ruling Letter (NY) N026040, dated April 17, 2008 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

In NY N026040, CBP determined that three styles of ACCO prong fasteners were classified in heading 8305, HTSUS, specifically subheading 8305.90.60, HTSUS, which provides for: "Fittings for loose-leaf binders or files, letter clips, letter corners, paper clips, indexing tags and similar office articles, and parts thereof, of base metal:...Other, including parts: Other." The articles subject to NY N026040 include: the Self-Adhesive Prong Fastener Base (item no. A7070011), the Prong Fastener Base (item number A7012991), the Prong Fastener Compressor (item number A7012994), and the Prong Fastener complete set (item number A7012990), which includes the Prong Fastener Base and Compressor.

It is now CBP's position that the Self-Adhesive Prong Fastener (Base) (item no. A7070011) is properly classified in subheading

8305.10.00, HTSUS, as “Fittings for looseleaf binders or files.” The classification of the other items described in NY N026040 are not affected by this notice.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to modify NY N026040 and revoke or modify any other ruling not specifically identified, in order to reflect the proper classification of the Self-Adhesive Prong Fastener Base (item no. A7070011), the Prong Fastener Base (item number A7012991), the Prong Fastener Compressor (item number A7012994) and the Prong Fastener complete set (item number A7012990) according to the analysis contained in proposed Headquarters Ruling Letter H027186, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: July 28, 2009

GAIL A. HAMILL for  
*Myles B. Harmon, Director*  
*Commercial and Trade Facilitation Division*

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
April 17, 2008  
CLA-2-83:OT:RR:E:NC:N1:121  
CATEGORY: Classification  
TARIFF NO.: 8305.90.6000

MR. DARREN LENOX  
ACCO BRANDS USA, LLC  
300 TOWER PARKWAY  
LINCOLNSHIRE, IL 60069

RE: The tariff classification of paper fasteners from Korea

DEAR MR. LENOX:

In your letter dated April 11, 2008, you requested a tariff classification ruling.

The merchandise under consideration is a Prong Fastener, item number A7012990; a Prong Fastener Base, item number A7012991; A Prong Fastener Compressor, item number A7012994; and a Self-Adhesive Prong Fastener, item number A7070011. All items are made of base metal.

Prong fasteners are used to secure a large number of papers that have been two-hole punched. Item number A7012990 consists of two parts: a base and a compressor. The base has two prongs that are folded through the holes of the paper and compressor. The compressor fits over the base to secure the prongs and hold the paper firmly. Item number A7012991 consists of a prong fastener base. Item number A7012994 consists of a prong fastener compressor. Item number A7070011 is a self-adhesive prong fastener base, which is similar to a prong fastener base, except that it has a self-adhesive backing for affixing permanently onto a file folder.

You assert in your letter that you believe the prong fastener should be classified as other paper clips in subheading 8305.90.3050, Harmonized Tariff Schedule of the United States (HTSUS); or alternatively, as fittings for looseleaf binders or files in subheading 8305.10.0050, HTSUS. You state that the prong fastener base should be classified as other paper clips in subheading 8305.90.3050, HTSUS; and that the prong fastener compressor should be classified as parts of paper clips in subheading 8305.90.3050, HTSUS, or alternatively in subheading 7326.90.8587, HTSUS, as other articles of iron or steel. Lastly, you claim that since the self-adhesive prong fastener base is designed to be permanently affixed onto a file folder, it should be classified in subheading 8305.10.0050, HTSUS, as fittings for looseleaf binders or files, other.

This office disagrees with your assertions. Prong fasteners of base metal and their parts are clearly provided for in heading 8305, HTSUS. However, it is the opinion of this office that the subject prong fasteners and parts are not provided for in subheading 8305.90.3050, HTSUS, as other paper clips, nor are they provided for in subheading 8305.10.0050, HTSUS, as fittings for loose-leaf binders or files.

The applicable subheading for the prong fasteners and parts will be 8305.90.6000, HTSUS, which provides for fittings for looseleaf binders or files, letter clips, letter corners, paper clips...of base metal, other, including parts, other. The rate of duty will be 5.7 percent ad valorem.

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

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 Barbara Kaiser at 646-733-3024.

*Sincerely,*

ROBERT B. SWIERUPSKI

*Director,*

*National Commodity Specialist Division*

[ATTACHMENT B]

Department of Homeland Security,  
U.S. Customs and Border Protection,  
HQ H027186  
CLA-2 OT:RR:CTF:TCM H027186 CkG  
CATEGORY: Classification  
TARIFF NO: 8305.10.00  
8305.90.60

MR. DARREN LENOX  
ACCO BRANDS CORP.  
300 TOWER PARKWAY  
LINCONSHIRE, ILLINOIS 60069-36407

RE: Modification of New York Ruling Letter N026040; base metal office articles

DEAR MR. LENNOX:

This is in response to your letter of April 29, 2008, on behalf of your company, ACCO Brands Corporation, requesting the reconsideration of New York Ruling Letter (NY) N026040, issued to you on April 17, 2008. At issue in that ruling was the classification of various base metal prong fasteners under the Harmonized Tariff Schedule of the United States (HTSUS). U.S. Customs and Border Protection (CBP) classified these items in subheading 8305.90.60, HTSUS, which provides for: "Fittings for looseleaf binders or files, letter clips, letter corners, paper clips, indexing tags and similar office articles, and parts thereof, of base metal;...Other, including parts: Other."

**FACTS:**

The merchandise in NY N026040 was described as follows:

[A] Prong Fastener, item number A7012990; a Prong Fastener Base, item number A7012991; A Prong Fastener Compressor, item number A7012994; and a Self-Adhesive Prong Fastener Base, item number A7070011. All items are made of base metal.

Prong fasteners are used to secure a large number of papers that have been two-hole punched. Item number A7012990, identified as the Prong Fastener (complete set), consists of two parts: a base and a compressor. The base has two prongs that are folded through the holes of the paper and compressor. The compressor fits over the base to secure the prongs and hold the paper firmly. Item number A7012991 consists of a prong fastener base. Item number A7012994 consists of a prong fastener compressor. Item number A7070011 is a self-adhesive prong fastener base, which is similar to a prong fastener base, except that it has a self-adhesive backing for affixing permanently onto a file folder.

Your request for reconsideration is limited to the classification of the Prong Fastener complete set, the Prong Fastener Base, and the Self-Adhesive Prong Fastener Base. You contend that the proper classification for the subject merchandise is under subheading 8305.10.00, HTSUS, which provides for fittings for looseleaf binders or files or, in the alternative, under subheading 8305.90.30, HTSUS, which provides for paper clips and their parts.

**ISSUE:**

Whether the subject prong fasteners and base are properly classified in subheading 8305.10.00, HTSUS, as fittings for looseleaf binders or files, subheading 8305.90.30, HTSUS, as paper clips and parts thereof, or in subheading 8305.90.60, HTSUS, as “other” office articles of base metal.

**LAW AND ANALYSIS:**

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

The HTSUS provisions under consideration are as follows:

- 8305                    Fittings for looseleaf binders or files, letter clips, letter corners, paper clips, indexing tags and similar office articles, and parts thereof, of base metal; staples in strips (for example, for offices, upholstery, packaging), of base metal:
- 8305.10.00           Fittings for looseleaf binders or files.....
- 8305.90              Other, including parts:
- 8305.90.30          Paper clips, and parts thereof.....
- 8305.90.60          Other.....

\* \* \* \* \*

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 the headings. It is CBP’s practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. See T.D. 89–80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

The Explanatory Note to heading 8305, HTSUS, provides, in pertinent part, as follows:

This heading covers base metal fittings of the clip, cord, spring lever, ring, screw, etc., types, for loose-leaf binders or box files. It further includes protecting rings, bands and corners for ledgers or other stationery books; also office stationery in metal of the type used in fastening together or index-marking papers (e.g., letter clips, paper clips, paper fasteners, letter corners, card indexing tags, file tags, spike files)....

\*                    \*                    \*                    \*                    \*                    \*

At GRI 1, there is no dispute that the instant merchandise is described by and is thus classifiable in heading 8305, HTSUS, because they are office articles of base metal.

You argue that the prong fasteners may be used as fittings for looseleaf binders or files and that they meet the description of “base metal fittings” of

the “clip” type provided for in EN 83.05. However, whereas EN 83.05 indicates that these types of fittings are “for ... box files”, you believe that the term “box files” is a very narrow interpretation of the term “files” found in heading 8305 (8305.10.00), HTSUS. You state that “loose-leaf papers can be maintained in various types of files and file folders beyond box files, nor are other files explicitly excluded from the Explanatory Notes for that subheading.” In support of your contention, you direct our attention to Headquarters Ruling Letter (HQ) 962366 (July 12, 1999) in which CBP classified metal clamps for oversized paper documents within subheading 8305.10.00, HTSUS. You state that, in that ruling, CBP did not limit the interpretation of the term “file” in the text of heading 8305, HTSUS, to the Explanatory Notes example of box files.

We agree with your contention that the term “box files” used in EN 83.05 is a very narrow interpretation of the *eo nomine* term “files” used in the text of heading 8305 and subheading 8305.10.00, HTSUS. The ENs, which are persuasive but not binding authority, cannot be used to narrow the scope of the legal text of a heading. Consequently, fittings for any type of files and not just box files may be classified in subheading 8305.10.00, HTSUS, unless the legal text requires otherwise. See *Chevron, U.S.A., Inc. v. NRDC, Inc.*, 467 U.S. 837 (1984). See, e.g., Headquarters Ruling Letter (HQ) 956644, dated December 18, 1994, in which CBP stated that the examples provided in the ENs for heading 3504, HTSUS, were illustrative and not restrictive.

Subheading 8305.10.00, HTSUS, is a use provision, in that fittings of the subheading are for use with looseleaf binders or files. Classification under a use provision is determined by the principal use in the United States at, or immediately prior to, the date of importation, of the class or kind of goods to which the imported goods belong. See Additional U.S. Rule of Interpretation 1(a), HTSUS. Generally, the courts have provided additional factors, which are indicative but not conclusive, to apply when determining whether merchandise falls within a particular class or kind. They include: (1) general physical characteristics, (2) expectation of the ultimate purchaser, (3) channels of trade, environment of sale (accompanying accessories, manner of advertisement and display), (4) use in the same manner as merchandise which defines the class, (5) economic practicality of so using the import, and (6) recognition in the trade of this use. See *United States v. Carborundum Co.*, 63 CCPA 98, 102, 536 F.2d 373, 377 (1976), cert denied, 429 U.S. 979 (1976).

### **Self-Adhesive Prong Fastener Base**

The Self-Adhesive Prong Fastener Base is designed to adhere to some sort of backing. In addition, they are marketed and sold as “easy to use, one-piece fasteners for file folders.” Based on their physical characteristics and the way in which they are marketed and sold, we find that purchasers would expect to be able to use the Self-Adhesive Prong Fastener Base with file folders. Accordingly, we find that this merchandise is principally used as fittings for files and is therefore provided for in subheading 8305.10.00, HTSUS.

### **Non-adhesive Prong Fastener Base and Prong Fastener complete set**

There is nothing inherent in the design of the non-adhesive Prong Fastener Base or the complete set which indicates that they are principally used with a binder or a file. The remaining Carborundum factors are also inconclusive.



On one hand, the ACCO product information for the complete non-adhesive set makes no mention of its suitability for use with file folders. In addition, some retailers categorize prong paper fastener bases and compressors separately from filing accessories or as general office supplies. *See e.g.*, [http://www.officedepot.com/a/browse/fasteners-and\\_posts/N=5+1936/](http://www.officedepot.com/a/browse/fasteners-and_posts/N=5+1936/); <http://www.officemax.com/office-supplies/clips-fasteners-rubberbands/fasteners/product-prod1600015?sp=true>. On the other hand, some office supply retailers consider the non-adhesive base and compressor set to be filing supplies, as noted in the product descriptions (e.g., “Standard Two-Piece Paper File Fasteners,” “Brass prong paper file fasteners,” “Prong Bases for Premium Two-Piece Paper File Fasteners”), and as evidenced by their being advertised as “filing accessories” or “filing supplies”. *See e.g.*, <http://www.officeworld.com/Worlds-Biggest-Selection/1151/09Q1/>; [http://www.staples.com/office/supplies/c21\\_File-Fasteners-File-Folders-Accessories\\_10376\\_Business\\_Supplies\\_10061\\_0\\_10051](http://www.staples.com/office/supplies/c21_File-Fasteners-File-Folders-Accessories_10376_Business_Supplies_10061_0_10051); <http://www.instaoffice.com/2-piece-paper-fasteners-2-capacity-2-3-4-center-to-center-2piece-acco-fasteners-file-fasteners-p.acc12992-ctn.0.7.htm>. Based on the way in which these products are marketed and sold, we find that purchasers would expect to be able to use the non-adhesive prong fastener base and complete set both with and without file folders.

Based on these facts, we conclude that the Prong Fastener complete set and Prong Fastener Base are not principally used as fittings for files of subheading 8305.10.00, HTSUS, and fall to be classified under subheading 8305.90. We find that neither item meets the description of subheading 8305.90.30, HTSUS, (paper clips) because they secure papers primarily by the bending of the prongs and not by the application of pressure. *See Webster’s New World Dictionary* (3rd Edition), which defines “paper clip” as “a flexible clasp, typically of metal wire, for holding loose sheets of paper together by pressure.” The *Oxford English Dictionary* similarly defines a “paper clip” as “a device used for holding together several sheets of paper, esp. in an office environment; *spec.* (a) a small spring-loaded clamp, often made of cast iron; (b) a single piece of wire which is shaped (esp. by bending or looping) into a design suitable for fastening papers; a similar device made of plastic or other material.” CBP has previously classified items such as binder clips in subheading 8305.90.30, HTSUS. *See* NY R01259, dated January 18, 2005, and NY D87052, dated January 26, 1999. As we do not consider the Prong Fastener Base or complete set to be types of paper clips, we find that they were correctly classified in subheading 8305.90.60, HTSUS.

### **HOLDING:**

By application of GRIs 1 and 6, the Self-Adhesive Prong Fastener [Base] #A7070011 is classified in subheading 8305.10.00, HTSUS, which provides for: “Fittings for looseleaf binders or files, letter clips, letter corners, paper clips, indexing tags and similar office articles, and parts thereof, of base metal:...Fittings for looseleaf binders or files.” The 2009 column one, general rate of duty is 2.9% *ad valorem*.

By application of GRIs 1 and 6, the Prong Fastener Base (item no. A7012991) and the Prong Fastener complete set (item no. A7012990) are classified in subheading 8305.90.60, HTSUS, as “Fittings for looseleaf binders or files, letter clips, letter corners, paper clips, indexing tags and similar office articles, and parts thereof, of base metal:... Other, including parts: Other.” The 2009 column one, general rate of duty is 5.7% *ad valorem*.

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

**EFFECT ON OTHER RULINGS:**

NY N026040, dated April 17, 2008, is hereby modified with respect to the classification of the Self-Adhesive Prong Fastener (Base), item no. A7070011. The classification of the Prong Fastener Base, item no. A7012991, and the Prong Fastener complete set, item no. A7012990, is not affected by this ruling.

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

**WITHDRAWAL OF PROPOSED MODIFICATION OF A  
RULING LETTER AND WITHDRAWAL OF PROPOSED  
REVOCAION OF TREATMENT RELATING TO THE NAFTA  
ELIGIBILITY OF CERTAIN AUTOMATIC DATA  
PROCESSING SYSTEMS**

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

**ACTION:** Withdrawal of notice of proposed modification of tariff classification ruling letter and withdrawal of proposed revocation of treatment relating to the North American Free Trade Agreement (NAFTA) eligibility of certain automatic data processing systems.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is withdrawing its proposed modification of one ruling letter relating to the NAFTA eligibility of certain automatic data processing systems. CBP is also withdrawing its proposal to revoke any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published in the Customs Bulletin, Vol. 43, No. 22, on May 29, 2009. Comments were received in response to the notice. After further reflection, CBP is withdrawing its proposed modification in order to further analyze the issue.

**DATES:** Immediately.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Altneu, Tariff Classification and Marking Branch: (202) 325–0023.

**SUPPLEMENTARY INFORMATION:****Background**

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

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin*, Vol. 43, No.22, on May 29, 2009, proposing to modify one ruling letter pertaining to the NAFTA eligibility of certain automatic data processing systems. Although in this notice, CBP was specifically referring to the modification of HQ H027696, dated July 2, 2008, the notice covered any rulings on this merchandise which may exist but had not been specifically identified. Comments were received in response to the notice. Based on these comments, the proposed notice and action (proposed HQ H037540) is being withdrawn to allow CBP additional time to further analyze the issue. A new notice addressing the points raised will be published at a future date.

Dated: July 27, 2009

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

**GENERAL NOTICE**  
**PROPOSED MODIFICATION OF A RULING LETTER AND**  
**PROPOSED REVOCATION OF TREATMENT RELATING TO**  
**THE ELIGIBILITY OF CERTAIN WOMEN'S PULLOVERS**  
**FOR PREFERENTIAL TARIFF TREATMENT**

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

**ACTION:** Notice of proposed modification of a ruling letter and proposed revocation of any treatment relating to the eligibility of certain women's pullovers for preferential tariff treatment under the United States-Singapore Free Trade Agreement.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930, (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is proposing to modify one ruling letter, New York Ruling Letter (NY) N024671, dated March 19, 2008, relating to the eligibility for preferential treatment under the United States-Singapore Free Trade Agreement of certain women's knit pullover garments. CBP is also proposing to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

**DATES:** Comments must be received on or before September 19, 2009.

**ADDRESSES:** Written comments are to be addressed to Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 799 9th Street, N.W., Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street, N.W., Washington, D.C. 20001 during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at 202-325-0118.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Reese, Valuation and Special Classification Branch, (202) 325-0046.

**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, this notice advises interested parties that CBP intends to modify one ruling, NY N024671, dated March 19, 2008, relating to the eligibility for preferential treatment under the United States-Singapore Free Trade Agreement (SFTA) of certain women’s knit pullover garments. NY N024671 also addresses the tariff classification of the subject garments and that portion of the decision is unaffected by this proposed action. Although in this notice CBP is specifically referring to the modification of NY N024671, this modification will cover 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 advise CBP 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, CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer’s failure to advise CBP of substantially identical transactions, or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY N024671, set forth as Attachment A to this document, CBP determined that a certain woman’s cotton knit pullover cut and sewn in Singapore from fabric knit in Singapore of U.S. yarns and featuring a patch pocket of fabric knit in China of Chinese yarns was eligible for preferential tariff treatment under the SFTA. CBP based that decision on Chapter Rule 2, Chapter 61 of General Note 25(o) which limits

the application of a rule set forth therein to the component that determines the classification of the good. CBP determined that the fabric for the body of the pullover was the component that determined the classification of the garment, and thus ignored the fabric forming the pocket. This was an error. As both fabrics are classifiable as of cotton and the garment is classified by application of General Rule of Interpretation 1; no single component is the component that determines the classification of the good.

Pursuant to 19 U.S.C. 1625(c)(1), CBP proposes to modify NY N024671, and revoke or modify any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper preferential tariff treatment eligibility of the merchandise pursuant to the analysis set forth in proposed HQ H052137, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP proposes to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: August 6, 2009

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

Attachments

[ATTACHMENT A]

N024671  
March 19, 2008  
CLA-2-61:OT:RR:E:NC:TA:348  
CATEGORY: Classification  
TARIFF NO.: 6110.20.2079

ANDY YAO  
YUNG WAH INDUSTRIAL CO. PTE. LTD.  
121 NEYTHAL ROAD  
SINGAPORE 628606

RE: The tariff classification and status under the United States-Singapore Free Trade Agreement (SFTA), of women's short sleeve pullover from Singapore.

DEAR MR. YAO:

In your letter dated March 13, 2008, you requested a ruling on the status of women's short sleeve pullovers from Singapore under the SFTA.

You provided illustrative material of a women's short sleeve pullover constructed of 100% cotton knit fabric. The pullover features a v-shaped neckline, a pocket with a buttoned tab closure on the upper left side front panel and a hemmed bottom.

You state that the yarns, used to manufacture the fabric for the pullover, are of United States (U.S.) origin. The yarns are imported into Singapore and knitted into fabric. The fabric is then cut and sewn to create the body of the pullover. The yarns used to manufacture the fabric for the pocket are of Chinese origin. The fabric is knitted in China and imported into Singapore where it is cut, sewn and attached to the body of the pullover.

The applicable tariff provision for the garment will be 6110.20.2079, Harmonized Tariff Schedule of the United States (HTSUS), which provides for sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted of cotton, other, other, other. The general rate of duty will be 16.5 percent.

The short sleeve pullover falls within textile category 339. With the exception of certain products of China, quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" which is available on our web site at [www.cbp.gov](http://www.cbp.gov). For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at [otexa.ita.doc.gov](http://otexa.ita.doc.gov).

General Note 25(b), HTSUS, sets forth the criteria for determining whether a good is originating under the SFTA. General Note 25(b), HTSUS, (19 U.S.C. § 1202) states, in pertinent part, that For the purposes of this note, subject to the provisions of subdivisions (c), (d), (n) and (o) thereof, goods imported into the customs territory of the U.S. are eligible for treatment as originating goods of a SFTA country under the terms of this note only if they—



- (i) were wholly obtained or produced entirely in the territory of Singapore or of the U.S., or both;
- (ii) are goods that, in their condition as imported, are enumerated in subdivision (m) of this note and imported from the territory of Singapore; or
- (iii) have been transformed in the territory of Singapore or of the United States, or both, so that each nonoriginating material:
  - (A) undergoes an applicable change in tariff classification set out in subdivision (o) of this note as a result of production occurring entirely in the territory of Singapore or of the United States, or both; or
  - (B) if no change in tariff classification is required, the good otherwise satisfies the applicable requirements set forth in such subdivision (o).

Based on the facts provided, the goods described above qualify for SFTA preferential treatment, because they will meet the requirements of HTSUS General Note 25(o) Chapter 61, Chapter rule 2. The chapter rule directs that only the component that determines the tariff classification must meet the terms of the shift rule. The fabric knitted from U.S. yarns in Singapore for the body of the pullover is the component that determines the classification. Since the fabric is stated to be an originating material it does not have to meet the terms of the tariff shift rule. The goods will therefore be entitled to a free rate of duty under the SFTA upon compliance with all applicable laws, regulations, and agreements.

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

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 Rosemarie Hayward at 646-733-3064.

*Sincerely,*

ROBERT B. SWIERUPSKI

*Director,*

*National Commodity Specialist Division*



[ATTACHMENT B]

HQ H052137  
VAL-2 OT:RR:CTF:VS CMR  
CATEGORY: Valuation  
TARIFF NO.:6110.20.2079

ANDY YAO  
YUNG WAH INDUSTRIAL CO. PTE. LTD.  
121 NEYTHAL ROAD  
SINGAPORE 628606

RE: Modification of New York Ruling Letter N024671, dated March 19, 2008, regarding the eligibility of certain women's cotton knit pullovers for preferential tariff treatment under the United States-Singapore Free Trade Agreement

DEAR MR. YAO:

On March 19, 2008, Customs and Border Protection (CBP) issued New York Ruling Letter (NY) N024671, dated March 19, 2008, to you. The ruling dealt with the tariff classification and eligibility of certain women's cotton knit pullovers for preferential tariff treatment under the United States-Singapore Free Trade Agreement (SFTA). It has come to our attention that an error was made regarding the determination of the eligibility of the pullovers for preferential tariff treatment under the SFTA. For that reason, we are modifying NY N024671 with regard to their eligibility for preferential tariff treatment based on the analysis contained herein. This modification does not affect the classification determination contained in NY N024671 which continues to be valid,

**FACTS:**

The garment submitted for review in NY N024671 as illustrative of the women's short sleeve pullovers for which you sought a ruling is described in NY N024671 as:

. . . a women's short sleeve pullover constructed of 100% cotton knit fabric. The pullover features a v-shaped neckline, a pocket with a buttoned tab closure on the upper left side front panel and a hemmed bottom.

. . . the yarns, used to manufacture the fabric for the pullover, are of United States (U.S.) origin. The yarns are imported into Singapore and knitted into fabric. The fabric is then cut and sewn to create the body of the pullover. The yarns used to manufacture the fabric for the pocket are of Chinese origin. The fabric is knitted in China and imported into Singapore where it is cut, sewn and attached to the body of the pullover.

**ISSUE:**

Does a women's cotton knit pullover produced as described in the FACTS above qualify for preferential tariff treatment under the SFTA?

**LAW AND ANALYSIS:**

Classification of goods under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is governed by the General Rules of Interpre-

tation (GRIs). GRI 1 provides that “classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to [the remaining GRIs taken in order].”

On May 6, 2003, the United States and the Republic of Singapore signed the United States-Singapore Free Trade Agreement (SFTA). The provisions of the SFTA were adopted by the United States with the enactment of the United States-Singapore Free Trade Agreement Implementation Act, Public Law 108–78 117 Stat. 948 (19 U.S.C. 3805 note) (2003). General Note (GN) 25 of the HTSUSA implements the provisions of the SFTA in the U.S. tariff schedule.

GN 25(a) provides:

Originating goods under the terms of the United States-Singapore Free Trade Agreement (SFTA) are subject to duty as provided herein. For the purposes of this note, goods of Singapore, as defined in subdivisions (b) through (o) of this note, that are imported into the customs territory of the United States and entered under a provision for which a rate of duty appears in the “Special” subcolumn of column 1 followed by the symbol “SG” in parentheses are eligible for the tariff treatment and quantitative limitations set forth in the “Special” subcolumn, in accordance with sections 201 and 202 of the United States-Singapore Free Trade Agreement Implementation Act (Pub.L.108–78; 117 Stat. 948).

GN 25(b) sets forth criteria for determining whether a good is an originating good for purposes of the SFTA. GN 25(b) states, in relevant part:

For the purposes of this note, subject to the provisions of subdivisions (c), (d), (n) and (o) thereof, goods imported into the customs territory of the United States are eligible for treatment as originating goods of a SFTA country under the terms of this note only if they—

- (i) were wholly obtained or produced entirely in the territory of Singapore or of the United States, or both;
- (ii) are goods that, in their condition as imported, are enumerated in subdivision (m) of this note and imported from the territory of Singapore; or
- (iii) have been transformed in the territory of Singapore or of the United States, or both, so that each nonoriginating material:
  - (A) undergoes an applicable change in tariff classification set out in subdivision (o) of this note as a result of production occurring entirely in the territory of Singapore or of the United States, or both; or
  - (B) if no change in tariff classification is required, the good otherwise satisfies the applicable requirements set forth in such subdivision (o).

In the case at hand, the cotton knit pullover is not wholly obtained or produced entirely in the territory of Singapore or of the United States and is not a good listed in subdivision (m) of GN 25. Therefore, we must determine if the pullover has been transformed in the territory of Singapore as required in GN 25(b)(iii).

GN 25(o), Chapter 61, Chapter Rule 2, states in relative part:

For purposes of determining the origin of a good of this chapter, the rule applicable to that good shall only apply to the component that determines the tariff classification of the good and such component must satisfy the tariff change requirements set out in the rule for that good.

The applicable rule for the cotton knit pullover in GN 25(o), Chapter 61 is Rule 59 which states:

A change to headings 6109 through 6111 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 or headings 5508 through 5516 or 6001 through 6006, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of Singapore or of the United States, or both.

The pullover at issue is 100 percent cotton, so in classifying this garment, classification was accomplished by application of GRI 1 and the garment was classified in NY N024671 as a cotton knit pullover in subheading 6110.20.2079, HTSUS. Since the pullover is 100 percent cotton, in this case there must be a change to heading 6110 (the heading in which the pullover is classified) from any other chapter, except from cotton yarn or cotton fabric and provided the cut and sew requirement is met.

NY N024671 indicates the cotton yarns used to make the fabric which forms the body of the pullover are of U.S. origin. We do not know the origin of the cotton fibers in the yarns. Although we do not know the origin of the cotton fiber, the formation of the yarn and fabric occurs in the parties. The cotton knit fabric used for the pocket of the pullover is formed in China of Chinese yarns.

In this case, Chapter rule 2 is not applicable. The component that determines the classification of the garment is the cotton knit fabric. Classification of the subject garment is accomplished by application of GRI 1, without making a distinction between the cotton knit fabrics. Chapter rule 2 simply does not apply in this case to restrict the application of Rule 59 to a specific component in the subject garment. Therefore, we must examine both cotton knit fabrics for compliance with the tariff shift rule.

The fabric for the body of the pullover meets the terms of Rule 59 as the yarns and fabric are formed in the territories of the parties. The fabric for the pocket, however, does not meet the terms of Rule 59 as the yarns and fabric are formed in China. Both fabrics meet the requirement of being cut and assembled in the territory of one or both parties, *i.e.*, the garment is cut and sewn in Singapore. However, as the pocket fabric does not meet the terms of Rule 59 based on the formation of the fabric in China, the pullover is ineligible for preferential treatment under the SFTA. See HQ 561892, dated August 30, 2002, wherein a knit jersey constructed of 100 percent polyester knit originating and nonoriginating fabrics was determined to be ineligible for preferential tariff treatment under the North American Free Trade Agreement as classification of the garment was made pursuant to GRI 1 and General Note 12, Chapter 61, Chapter Rule 2 was deemed inapplicable. See also HQ H043056, dated May 5, 2009.

**HOLDING:**

The short sleeve cotton knit women's pullover, illustrative of the women's short sleeve pullovers for which you sought a ruling, does not qualify for preferential tariff treatment under the SFTA.

**EFFECT ON OTHER RULINGS:**

NY N024671 is hereby modified.

A copy of this ruling letter should be attached to the entry documents filed at the time the goods are entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the CBP office handling the transaction.

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

**MODIFICATION OF A RULING LETTER AND REVOCATION  
OF TREATMENT RELATING TO THE TARIFF  
CLASSIFICATION OF DIETHYL-4-  
TOLUENESULFONYLOXMETHYL PHOSPHATE**

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

**ACTION:** Modification of a classification ruling letter and revocation of treatment relating to the classification of Diethyl-4-Toluenesulfonyloxmethyl Phosphate.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930, as 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 modifying a ruling letter relating to the tariff classification of Diethyl-4-Toluenesulfonyloxmethyl Phosphate (C.A.S. 31618-90-3) also referred to as Diethyl (Tosyloxy) Methylphosphonate, under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed revocation was published on May 29, 2009, in the *Customs Bulletin*, Volume 43, No. 22. No comments were received in response to the notice.

**DATES:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after October 19, 2009.

**FOR FURTHER INFORMATION CONTACT:** John Rhea, Tariff Classification and Marking Branch: (202) 325-0035.

**SUPPLEMENTARY INFORMATION:****Background**

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

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin* Volume 43, No. 22, on May 29, 2009, proposing to modify a ruling letter pertaining to the tariff classification of Diethyl-4-Toluenesulfonyloxmethyl Phosphate (C.A.S. 31618-90-3). Although in the proposed notice, CBP specifically proposed to modify New York Ruling Letter (“NY”) J83633, dated June 12, 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., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP 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, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during this notice period. An importer’s failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is to modifying NY J83633 and any other ruling not specifically identified, to reflect the proper classification of the Diethyl-4-Toluenesulfonyloxmethyl Phosphate according to the analysis contained in Headquarters Ruling Letter (“HQ”) H034672, set forth as an attachment to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: August 3, 2009

GAIL A. HAMILL for  
MYLES B. HARMON,  
*Director*  
*Commercial and Trade Facilitation Division*

Attachment

HQ H034672  
August 3, 2009  
CLA-2 OT:RR:CTF:TCM H034672 JER  
CATEGORY: Classification  
TARIFF NO.: 2931.00.30

LAURA MANNISTO  
INTERCHEM CORPORATION  
120 ROUTE 17 NORTH, SUITE 115  
P.O. BOX 1579  
PARAMUS, NJ 07653-1579

RE: Modification of NY J83633; Diethyl-4-Toluenesulfonyloxmethyl Phosphate

DEAR MS. MANNISTO:

On June 12, 2003, U.S. Customs and Border Protection (“CBP”) issued New York Ruling Letter (“NY”) J83633 to you classifying, in relevant part, Diethyl-4-Toluenesulfonyloxmethyl Phosphate in heading 2930 of the Harmonized Tariff Schedule of the United States (“HTSUS”). After reviewing NY J83633, we have found that ruling to be incorrect. For the reasons set forth in this ruling, we are modifying NY J83633.

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 was published on May 29, 2009, in the *Customs Bulletin*, Volume 43, No. 22. No comments were received in response to the notice.

**FACTS:**

Diethyl-4-Toluenesulfonyloxmethyl Phosphate (C.A.S. 31618-90-3)<sup>1</sup> also referred to as Diethyl (Tosyloxy) Methylphosphonate is an aromatic chemical compound which is used as a pharmaceutical intermediate, i.e. adjuvants, diluent or carriers. According to the CBP Laboratory, the chemical structure of Diethyl-4-TP contains three functional groups which include an organo-phosphorus group, an organo-sulfur group and an ester of inorganic acid.

**ISSUE:**

Whether the subject Diethyl-4-Toluenesulfonyloxmethyl Phosphate is classified in heading 2930, HTSUS, as an organo-sulfur compound or under heading 2931, HTSUS, as an other organo-inorganic compound.

**LAW AND ANALYSIS:**

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

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<sup>1</sup> C.A.S. is an acronym for the Chemical Abstract Service and is typically followed by a registry number (e.g., C.A.S. 637-59-2).

The HTSUS provisions under consideration are as follows:

2920	Esters of other inorganic acids of nonmetals (excluding esters of hydrogen halides) and their salts; their halogenated, sulfonated, nitrated or nitrosated derivatives:
2920.90	Other:
	Aromatic:
2920.90.20	Other....
2930	Organo-sulfur compounds:
	*                    *                    *
2930.90	Other
	Aromatic:
	Other:
2930.90.2900	Other.....
2931	Other organo-ingoranic compounds:
	Aromatic:
	*                    *                    *
	Other:
	Other:
	Other:
2931.00.30	Products described in additional U.S. note 3 to section VI

Note 3 to Chapter 29, HTSUS, provides that:

Goods which could be included in two or more of the headings of this chapter are to be classified in that one of those headings which occurs last in numerical order.

Furthermore, Additional U.S. Note 3 to Section VI, HTSUS, provides that:

The term "*products described in additional U.S. note 3 to section VI*" refers to any product not listed in the Chemical Appendix to the Tariff Schedule and--

(a) For which the importer furnishes the Chemical Abstracts Service (C.A.S.) registry number and certifies that such registry number is not listed in the Chemical Appendix to the Tariff Schedule; or

(b) Which the importer certifies not to have a C.A.S. registry number and not to be listed in the Chemical Appendix to the Tariff Schedule, either under the name used to make Customs entry or under any other name by which it may be known.

In NY J83633, CBP classified three chemical compounds referred to respectively as 3-Phenylproprionic Acid, Citalopram Hydrobromide and Diethyl-4-Toluenesulfonyloxmethyl Phosphate. This decision is limited to the classification of the Diethyl-4-Toluenesulfonyloxmethyl Phosphate (hereinafter Diethyl-4-TP).



The subject aromatic chemical compound contains esters of inorganic acids, classified in heading 2920, HTSUS. In addition, the subject compound also contains organo-sulfur, classified in heading 2930, HTSUS, and organo-phosphorus, classified in heading 2931, HTSUS. Based on the chemical structure of the subject compound, we find that the Diethyl-4-Toluenesulfonyloxmethyl Phosphate is *prima facie* included in more than one heading of Chapter 29, namely, heading 2920, HTSUS; heading 2930, HTSUS and heading 2931, HTSUS.

As such, the subject Diethyl-4-TP is within the purview of Note 3 to Chapter 29. Accordingly, the Diethyl-4-TP is classified in heading 2931, HTSUS, which occurs last in numerical order.

The subject Diethyl-4-TP (C.A.S. 31618–90–3) is not listed in the Chemical Appendix to the HTSUS and the C.A.S. registry number is also not listed on the Chemical Appendix to the HTSUS. Therefore, the subject Diethyl-4-TP is deemed a product described in Additional U.S. Note 3 to Section VI and is thus classified in subheading 2931.00.30, HTSUS.

#### **HOLDING:**

By application of GRI 1 and pursuant to Note 3 to Chapter 29, HTSUS, the subject Diethyl-4-Toluenesulfonyloxmethyl Phosphate is classifiable under heading 2931, HTSUS. Specifically, the product is classified under subheading 2931.00.30, HTSUS, which provides for: “Other organo-inorganic compounds: Aromatic: Other: Other: Other: Products described in additional U.S. note 3 to section VI.” Pursuant to GN 13, the column one, special rate of duty is Free.<sup>2</sup>

#### **EFFECT ON OTHER RULINGS:**

NY J83633, dated June 12, 2003, is hereby modified. In accordance with 19 U.S.C. §1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

*Sincerely,*

GAIL A. HAMILL for

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

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<sup>2</sup> General Note (GN) 13 to the HTSUS provides that: Pharmaceutical products. Whenever a rate of duty of “Free” followed by the symbol “K” in parentheses appears in the “Special” subcolumn for a heading or subheading, any product (by whatever name known) classifiable in such provision which is the product of a country eligible for tariff treatment under column 1 shall be entered free of duty, provided that such product is included in the pharmaceutical appendix to the tariff schedule. Products in the pharmaceutical appendix include the salts, esters and hydrates of the International Non-proprietary Name (INN) products enumerated in table 1 of the appendix that contain in their names any of the prefixes or suffixes listed in table 2 of the appendix, provided that any such salt, ester or hydrate is classifiable in the same 6-digit tariff provision as the relevant product enumerated in table 1.

