

U.S. Customs and Border Protection

19 CFR Part 115

CBP Dec. 09-27

RIN 1651-AA78

CARGO CONTAINER AND ROAD VEHICLE CERTIFICATION PURSUANT TO INTERNATIONAL CONVENTIONS: Designated Certifying Authorities

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

ACTION: Final rule; technical amendment.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations in title 19 of the Code of Federal Regulations (CFR) concerning the certification of cargo containers for international transport pursuant to international customs conventions. These amendments reflect that the Commissioner of CBP has designated Lloyd's Register North America, Inc., as an authority in certifying containers for international transport under customs seal. This document further updates the addresses of three designated Certifying Authorities that are already listed in the CBP regulations.

DATES: This final rule is effective [July 27, 2009.]

FOR FURTHER INFORMATION CONTACT: Gary Rosenthal, Program Manager, Cargo Control Branch, Cargo and Conveyance Security, Office of Field Operations, (202) 344-2673.

SUPPLEMENTARY INFORMATION:

Background

The provisions of part 115 of the Customs and Border Protection (CBP) regulations (19 CFR part 115) establish procedures for certifying containers and road vehicles for international transport under customs seal in conformance with the Customs Convention on Containers (1956) (TIAS 6634), the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (1959) (TIAS 6633), the Customs Convention on the International Transport of

Goods Under Cover of TIR Carnets, November 14, 1975 (TIAS), and the Customs Convention on Containers, 1972 (TIAS). The responsibility for the approval and certification of containers and road vehicles was transferred from the U. S. Coast Guard to the U.S. Customs Service (now CBP) by Executive Order 12445, dated October 17, 1983. Part 115 of the CBP regulations was promulgated by T.D. 86–92 which was published in the **Federal Register** (51 FR 16161) on May 1, 1986.

Under the certification program, containers and road vehicles, or proposed designs for such conveyances, may be submitted to various Certifying Authorities worldwide for approval. With respect to the designation of Certifying Authorities in the United States, § 115.3(a) of the CBP regulations (19 CFR 115.3(a)) defines a “Certifying Authority” as a non-profit firm or association, incorporated or established in the United States, which the Commissioner of CBP finds competent to carry out the functions set forth in §§ 115.8 through 115.14 of the CBP regulations (19 CFR 115.8–115.14), and which the Commissioner designates to certify containers and road vehicles for international transport under customs seal. The certification of containers and road vehicles for international transport under customs seal is voluntary, and non-certification does not preclude the use of containers and road vehicles in international commerce.

Section 115.6 of the CBP regulations (19 CFR 115.6) sets forth three Certifying Authorities that have been designated by the Commissioner to perform the examination and certification functions for containers and road vehicles. These are the American Bureau of Shipping, International Cargo Gear Bureau, Inc., and the National Cargo Bureau, Inc. Under § 115.7 of the CBP regulations (19 CFR 115.7), the Commissioner may designate additional Certifying Authorities.

On May 8, 2002, Lloyd’s Register North America, Inc. (“Lloyd’s”) filed a request with CBP for status as a Certifying Authority for containers and container-design types pursuant to 19 CFR part 115. This request was granted by the Commissioner by letter dated April 10, 2003. Lloyd’s status as a Certifying Authority does not extend to certification for individual road vehicles or road vehicle design types covered in 19 CFR part 115, subparts E and F. This document amends § 115.6 to add Lloyd’s to the list of designated Certifying Authorities only for containers and container-design types.

This document further amends § 115.6 to update the addresses of the previously-designated three Certifying Authorities, and also to clarify that they are approved entities for certifying both containers and road vehicles. Finally, this document revises § 115.6 to distinguish between the two types of Certifying Authorities designated by the Commissioner.

Signing Authority

This document is limited to technical corrections of CBP regulations. Accordingly, it is being issued in accordance with section 0.2(a) of the CBP regulations (19 CFR 0.2(a)).

Inapplicability of Notice and Delayed Effective Date Requirements

Because this amendment merely updates the list of Certifying Authorities designated by the Commissioner and their addresses, and neither imposes any additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Executive Order 12866 and Regulatory Flexibility Act

This final rule document does not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866. In addition, because no notice of proposed rulemaking is required for the reasons stated above, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 *et seq.*), this final rule document contains no new information collection and recordkeeping requirements that require Office of Management and Budget approval.

Unfunded Mandates Reform Act of 1995

This final rule will not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It will not result in costs of \$100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This final rule would not result in such an expenditure.

Executive Order 13132

In accordance with the principles and criteria contained in Executive Order 13132 (Federalism), this final rule will have no substantial effect on the States, the current Federal-State relationship, or on the current distribution of power and responsibilities among local officials.

List of Subjects in 19 CFR Part 115

Containers, Customs Duties and Inspection, Freight, International Conventions.

Amendments to the CBP Regulations

For the reasons set forth above, part 115, CBP regulations (19 CFR part 115), is amended as set forth below:

PART 115 – CARGO CONTAINER AND ROAD VEHICLE CERTIFICATION PURSUANT TO INTERNATIONAL CUSTOMS CONVENTIONS

1. The authority citation for part 115, CBP regulations, continues to read as follows:

AUTHORITY: 5 U.S.C. 301, 19 U.S.C. 66, 1624; E.O. 12445 of October 17, 1983.

2. Section 115.6 is revised to read as follows:

§ 115.6 Designated Certifying Authorities.

- (a) Certifying Authorities for containers and road vehicles. The Commissioner has designated the following Certifying Authorities for containers and road vehicles as defined in this part:
 - (1) The American Bureau of Shipping, ABS Plaza, 16855 Northchase Drive, Houston, Texas 77060–6008;
 - (2) International Cargo Gear Bureau, Inc., 321 West 44th Street, New York, New York 10036;
 - (3) The National Cargo Bureau, Inc., 17 Battery Place, Suite 1232, New York, New York 10004–1110.
- (b) Certifying Authority for containers. The Commissioner has designated Lloyd's Register North America, Inc., 1401 Enclave Parkway, Suite 200, Houston, Texas 77077, as a Certifying Authority only for containers as defined in this part.

Dated: July 22, 2009

JAYSON P. AHERN
Acting Commissioner
Customs and Border Protection

[Published in the Federal Register, July 27, 2009 (74 FR 36925)]

(CBP DEC. 09-28)**FOREIGN CURRENCIES****DAILY RATES FOR COUNTRIES NOT ON
QUARTERLY LIST FOR APRIL, 2009**

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): none

European Union euro:

April 1, 2009	1.322300
April 2, 2009	1.345800
April 3, 2009	1.344700
April 4, 2009	1.344700
April 5, 2009	1.344700
April 6, 2009	1.336300
April 7, 2009	1.328200
April 8, 2009	1.328800
April 9, 2009	1.314900
April 10, 2009	1.314300
April 11, 2009	1.314300
April 12, 2009	1.314300
April 13, 2009	1.335400
April 14, 2009	1.327700
April 15, 2009	1.318200
April 16, 2009	1.319700
April 17, 2009	1.303000
April 18, 2009	1.303000
April 19, 2009	1.303000
April 20, 2009	1.290300
April 21, 2009	1.297800
April 22, 2009	1.301200
April 23, 2009	1.304800
April 24, 2009	1.327700
April 25, 2009	1.327700
April 26, 2009	1.327700
April 27, 2009	1.313600
April 28, 2009	1.306100
April 29, 2009	1.332400
April 30, 2009	1.324400

South Korea won:

April 1, 2009	0.000726
April 2, 2009	0.000752

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list
for April, 2009 (continued):

South Korea won: (continued):

April 3, 2009	0.000749
April 4, 2009	0.000749
April 5, 2009	0.000749
April 6, 2009	0.000767
April 7, 2009	0.000759
April 8, 2009	0.000741
April 9, 2009	0.000760
April 10, 2009	0.000753
April 11, 2009	0.000753
April 12, 2009	0.000753
April 13, 2009	0.000753
April 14, 2009	0.000758
April 15, 2009	0.000750
April 16, 2009	0.000751
April 17, 2009	0.000754
April 18, 2009	0.000754
April 19, 2009	0.000754
April 20, 2009	0.000752
April 21, 2009	0.000741
April 22, 2009	0.000743
April 23, 2009	0.000745
April 24, 2009	0.000747
April 25, 2009	0.000747
April 26, 2009	0.000747
April 27, 2009	0.000747
April 28, 2009	0.000740
April 29, 2009	0.000749
April 30, 2009	0.000783

Taiwan N.T. dollar:

April 1, 2009	0.029568
April 2, 2009	0.030257
April 3, 2009	0.030157
April 4, 2009	0.030157
April 5, 2009	0.030157
April 6, 2009	0.030211
April 7, 2009	0.029762
April 8, 2009	0.029516
April 9, 2009	0.029638
April 10, 2009	0.029603
April 11, 2009	0.029603
April 12, 2009	0.029603
April 13, 2009	0.029691
April 14, 2009	0.029753
April 15, 2009	0.029603
April 16, 2009	0.029586
April 17, 2009	0.029577
April 18, 2009	0.029577
April 19, 2009	0.029577

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for April, 2009 (continued):

Taiwan N.T. dollar: (continued):

April 20, 2009	0.029568
April 21, 2009	0.029542
April 22, 2009	0.029542
April 23, 2009	0.029577
April 24, 2009	0.029682
April 25, 2009	0.029682
April 26, 2009	0.029682
April 27, 2009	0.029656
April 28, 2009	0.029595
April 29, 2009	0.029727
April 30, 2009	0.030248

Dated: May 1, 2009

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(CBP DEC. 09-29)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR APRIL, 2009

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in CBP Decision 09-25 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): none

Australia dollar:

April 30, 2009	0.731700
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Brazil real:

April 10, 2009	0.460829
April 11, 2009	0.460829
April 12, 2009	0.460829
April 29, 2009	0.462599

FOREIGN CURRENCIES—Variances from quarterly rates for April,
2009 (continued):

Canada dollar:

April 30, 2009 0.837591

Mexico peso:

April 9, 2009 0.075913
 April 10, 2009 0.076173
 April 11, 2009 0.076173
 April 12, 2009 0.076173
 April 13, 2009 0.076406
 April 14, 2009 0.076429
 April 15, 2009 0.075936
 April 16, 2009 0.076646
 April 17, 2009 0.076132
 April 18, 2009 0.076132
 April 19, 2009 0.076132
 April 21, 2009 0.076208
 April 22, 2009 0.076167

Republic of South Africa rand:

April 22, 2009 0.112732
 April 24, 2009 0.113443
 April 25, 2009 0.113443
 April 26, 2009 0.113443
 April 27, 2009 0.114351
 April 28, 2009 0.114705
 April 29, 2009 0.117855
 April 30, 2009 0.118483

Sweden krona:

April 20, 2009 0.115257

Dated: May 1, 2009

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(CBP DEC. 09-30)**FOREIGN CURRENCIES****DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR MAY, 2009**

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): May 25, 2009

European Union euro:

May 1, 2009	1.326700
May 2, 2009	1.326700
May 3, 2009	1.326700
May 4, 2009	1.336500
May 5, 2009	1.337500
May 6, 2009	1.331300
May 7, 2009	1.341100
May 8, 2009	1.349400
May 9, 2009	1.349400
May 10, 2009	1.349400
May 11, 2009	1.362000
May 12, 2009	1.363800
May 13, 2009	1.361200
May 14, 2009	1.360800
May 15, 2009	1.353900
May 16, 2009	1.353900
May 17, 2009	1.353900
May 18, 2009	1.350300
May 19, 2009	1.360800
May 20, 2009	1.376500
May 21, 2009	1.380400
May 22, 2009	1.400500
May 23, 2009	1.400500
May 24, 2009	1.400500
May 25, 2009	1.400500
May 26, 2009	1.399200
May 27, 2009	1.392400
May 28, 2009	1.394800
May 29, 2009	1.412600
May 30, 2009	1.412600
May 31, 2009	1.412600

South Korea won:

May 1, 2009	0.000783
May 2, 2009	0.000783

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list
for May, 2009 (continued):

South Korea won: (continued):

May 3, 2009	0.000783
May 4, 2009	0.000789
May 5, 2009	0.000789
May 6, 2009	0.000786
May 7, 2009	0.000795
May 8, 2009	0.000805
May 9, 2009	0.000805
May 10, 2009	0.000805
May 11, 2009	0.000811
May 12, 2009	0.000808
May 13, 2009	0.000807
May 14, 2009	0.000791
May 15, 2009	0.000799
May 16, 2009	0.000799
May 17, 2009	0.000799
May 18, 2009	0.000793
May 19, 2009	0.000804
May 20, 2009	0.000803
May 21, 2009	0.000803
May 22, 2009	0.000805
May 23, 2009	0.000805
May 24, 2009	0.000805
May 25, 2009	0.000805
May 26, 2009	0.000791
May 27, 2009	0.000791
May 28, 2009	0.000793
May 29, 2009	0.000801
May 30, 2009	0.000801
May 31, 2009	0.000801

Taiwan N.T. dollar:

May 1, 2009	0.030175
May 2, 2009	0.030175
May 3, 2009	0.030175
May 4, 2009	0.030312
May 5, 2009	0.030285
May 6, 2009	0.030175
May 7, 2009	0.030202
May 8, 2009	0.030294
May 9, 2009	0.030294
May 10, 2009	0.030294
May 11, 2009	0.030367
May 12, 2009	0.030460
May 13, 2009	0.030386
May 14, 2009	0.030349
May 15, 2009	0.030377
May 16, 2009	0.030377
May 17, 2009	0.030377
May 18, 2009	0.030321
May 19, 2009	0.030441

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for May, 2009 (continued):

Taiwan N.T. dollar: (continued):

May 20, 2009	0.030488
May 21, 2009	0.030572
May 22, 2009	0.030722
May 23, 2009	0.030722
May 24, 2009	0.030722
May 25, 2009	0.030722
May 26, 2009	0.030647
May 27, 2009	0.030562
May 28, 2009	0.030647
May 29, 2009	0.030703
May 30, 2009	0.030703
May 31, 2009	0.030703

Dated: June 1, 2009

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(CBP DEC. 09-31)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR MAY, 2009

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 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): May 25, 2009

Australia dollar:

May 1, 2009	0.729000
May 2, 2009	0.729000
May 3, 2009	0.729000
May 4, 2009	0.738800
May 5, 2009	0.743600
May 6, 2009	0.746700
May 7, 2009	0.757900

FOREIGN CURRENCIES—Variances from quarterly rates for May,
2009 (continued):

Australia dollar: (continued):

May 8, 2009	0.760900
May 9, 2009	0.760900
May 10, 2009	0.760900
May 11, 2009	0.761400
May 12, 2009	0.763500
May 13, 2009	0.757000
May 14, 2009	0.757300
May 15, 2009	0.752600
May 16, 2009	0.752600
May 17, 2009	0.752600
May 18, 2009	0.759600
May 19, 2009	0.774100
May 20, 2009	0.777000
May 21, 2009	0.774300
May 22, 2009	0.785300
May 23, 2009	0.785300
May 24, 2009	0.785300
May 25, 2009	0.785300
May 26, 2009	0.784200
May 27, 2009	0.787400
May 28, 2009	0.786100
May 29, 2009	0.799300
May 30, 2009	0.799300
May 31, 2009	0.799300

Brazil real:

May 4, 2009	0.468099
May 5, 2009	0.465224
May 6, 2009	0.471720
May 7, 2009	0.475014
May 8, 2009	0.482114
May 9, 2009	0.482114
May 10, 2009	0.482114
May 11, 2009	0.487140
May 12, 2009	0.483395
May 13, 2009	0.475964
May 14, 2009	0.477578
May 15, 2009	0.480423
May 16, 2009	0.480423
May 17, 2009	0.480423
May 18, 2009	0.480815
May 19, 2009	0.488067
May 20, 2009	0.494927
May 21, 2009	0.491836
May 22, 2009	0.493243
May 23, 2009	0.493243
May 24, 2009	0.493243
May 25, 2009	0.493243
May 26, 2009	0.494535
May 27, 2009	0.496327

FOREIGN CURRENCIES—Variances from quarterly rates for May,
2009 (continued):

Brazil real: (continued):

May 28, 2009	0.498157
May 29, 2009	0.508182
May 30, 2009	0.508182
May 31, 2009	0.508182

Canada dollar:

May 1, 2009	0.842602
May 2, 2009	0.842602
May 3, 2009	0.842602
May 4, 2009	0.848969
May 5, 2009	0.850485
May 6, 2009	0.852806
May 7, 2009	0.853679
May 8, 2009	0.863558
May 9, 2009	0.863558
May 10, 2009	0.863558
May 11, 2009	0.862738
May 12, 2009	0.856825
May 13, 2009	0.855725
May 14, 2009	0.852806
May 15, 2009	0.850629
May 16, 2009	0.850629
May 17, 2009	0.850629
May 18, 2009	0.857927
May 19, 2009	0.864528
May 20, 2009	0.874585
May 21, 2009	0.876271
May 22, 2009	0.890155
May 23, 2009	0.890155
May 24, 2009	0.890155
May 25, 2009	0.890155
May 26, 2009	0.892937
May 27, 2009	0.899281
May 28, 2009	0.899038
May 29, 2009	0.912659
May 30, 2009	0.912659
May 31, 2009	0.912659

Denmark krone:

May 22, 2009	0.188097
May 23, 2009	0.188097
May 24, 2009	0.188097
May 25, 2009	0.188097
May 26, 2009	0.188026
May 27, 2009	0.187094
May 28, 2009	0.187354
May 29, 2009	0.189725
May 30, 2009	0.189725
May 31, 2009	0.189725

FOREIGN CURRENCIES—Variances from quarterly rates for May,
2009 (continued):

India rupee:

May 18, 2009	0.021017
May 19, 2009	0.020986
May 20, 2009	0.021142
May 21, 2009	0.021142
May 22, 2009	0.021299
May 23, 2009	0.021299
May 24, 2009	0.021299
May 25, 2009	0.021299
May 26, 2009	0.020964
May 27, 2009	0.021004
May 28, 2009	0.021053
May 29, 2009	0.021227
May 30, 2009	0.021227
May 31, 2009	0.021227

Mexico peso:

May 7, 2009	0.076418
May 8, 2009	0.076300
May 9, 2009	0.076300
May 10, 2009	0.076300
May 11, 2009	0.076278
May 18, 2009	0.076220
May 19, 2009	0.077202
May 20, 2009	0.077610
May 21, 2009	0.076406
May 22, 2009	0.075942
May 23, 2009	0.075942
May 24, 2009	0.075942
May 25, 2009	0.075942
May 26, 2009	0.076138
May 27, 2009	0.076045
May 29, 2009	0.075861
May 30, 2009	0.075861
May 31, 2009	0.075861

New Zealand dollar:

May 7, 2009	0.596200
May 8, 2009	0.598400
May 9, 2009	0.598400
May 10, 2009	0.598400
May 11, 2009	0.606200
May 12, 2009	0.604000
May 13, 2009	0.594700
May 14, 2009	0.594400
May 19, 2009	0.602400
May 20, 2009	0.609500
May 21, 2009	0.605900
May 22, 2009	0.621500

FOREIGN CURRENCIES—Variances from quarterly rates for May,
2009 (continued):

New Zealand dollar: (continued):

May 23, 2009	0.621500
May 24, 2009	0.621500
May 25, 2009	0.621500
May 26, 2009	0.622100
May 27, 2009	0.623000
May 28, 2009	0.625900
May 29, 2009	0.637000
May 30, 2009	0.637000
May 31, 2009	0.637000

Norway krone:

May 22, 2009	0.157916
May 23, 2009	0.157916
May 24, 2009	0.157916
May 25, 2009	0.157916
May 26, 2009	0.156779
May 29, 2009	0.158381
May 30, 2009	0.158381
May 31, 2009	0.158381

Republic of South Africa rand:

May 1, 2009	0.118554
May 2, 2009	0.118554
May 3, 2009	0.118554
May 4, 2009	0.119904
May 5, 2009	0.118984
May 6, 2009	0.119090
May 7, 2009	0.119439
May 8, 2009	0.119617
May 9, 2009	0.119617
May 10, 2009	0.119617
May 11, 2009	0.119190
May 12, 2009	0.118106
May 13, 2009	0.117578
May 14, 2009	0.116754
May 15, 2009	0.114507
May 16, 2009	0.114507
May 17, 2009	0.114507
May 18, 2009	0.116104
May 19, 2009	0.118519
May 20, 2009	0.119976
May 21, 2009	0.119617
May 22, 2009	0.120409
May 23, 2009	0.120409
May 24, 2009	0.120409
May 25, 2009	0.120409
May 26, 2009	0.120809
May 27, 2009	0.123191

FOREIGN CURRENCIES—Variances from quarterly rates for May,
2009 (continued):

Republic of South Africa rand: (continued):

May 28, 2009	0.124378
May 29, 2009	0.124572
May 30, 2009	0.124572
May 31, 2009	0.124572

Singapore dollar:

May 22, 2009	0.694155
May 23, 2009	0.694155
May 24, 2009	0.694155
May 25, 2009	0.694155
May 29, 2009	0.691898
May 30, 2009	0.691898
May 31, 2009	0.691898

Sweden krona:

May 8, 2009	0.129156
May 9, 2009	0.129156
May 10, 2009	0.129156
May 11, 2009	0.128803
May 18, 2009	0.128404
May 19, 2009	0.129948
May 20, 2009	0.131989
May 21, 2009	0.131926
May 22, 2009	0.134025
May 23, 2009	0.134025
May 24, 2009	0.134025
May 25, 2009	0.134025
May 26, 2009	0.132275
May 27, 2009	0.130702
May 28, 2009	0.129781
May 29, 2009	0.131196
May 30, 2009	0.131196
May 31, 2009	0.131196

Switzerland franc:

May 22, 2009	0.921914
May 23, 2009	0.921914
May 24, 2009	0.921914
May 25, 2009	0.921914
May 26, 2009	0.923105
May 27, 2009	0.920726
May 28, 2009	0.922679
May 29, 2009	0.935279
May 30, 2009	0.935279
May 31, 2009	0.935279

FOREIGN CURRENCIES—Variances from quarterly rates for May, 2009 (continued):

United Kingdom pound sterling:

May 11, 2009.....	1.514500
May 12, 2009.....	1.524000
May 13, 2009.....	1.516500
May 14, 2009.....	1.519500
May 15, 2009.....	1.522200
May 16, 2009.....	1.522200
May 17, 2009.....	1.522200
May 18, 2009.....	1.530900
May 19, 2009.....	1.550100
May 20, 2009.....	1.567000
May 21, 2009.....	1.576300
May 22, 2009.....	1.589200
May 23, 2009.....	1.589200
May 24, 2009.....	1.589200
May 25, 2009.....	1.589200
May 26, 2009.....	1.593800
May 27, 2009.....	1.606800
May 28, 2009.....	1.595600
May 29, 2009.....	1.616000
May 30, 2009.....	1.616000
May 31, 2009.....	1.616000

Dated: June 1, 2009

MARGARET T. BLOM
*Customs Information Exchange
Pgm Mgmt Staff*

(CBP DEC. 09-32)**FOREIGN CURRENCIES****DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR JUNE, 2009**

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): none

European Union euro:

June 1, 2009.....	1.419200
June 2, 2009.....	1.427000
June 3, 2009.....	1.419400
June 4, 2009.....	1.418700
June 5, 2009.....	1.399000
June 6, 2009.....	1.399000
June 7, 2009.....	1.399000
June 8, 2009.....	1.388400
June 9, 2009.....	1.401400
June 10, 2009.....	1.398300
June 11, 2009.....	1.409300
June 12, 2009.....	1.404000
June 13, 2009.....	1.404000
June 14, 2009.....	1.404000
June 15, 2009.....	1.378400
June 16, 2009.....	1.387800
June 17, 2009.....	1.385000
June 18, 2009.....	1.397800
June 19, 2009.....	1.399800
June 20, 2009.....	1.399800
June 21, 2009.....	1.399800
June 22, 2009.....	1.384600
June 23, 2009.....	1.403500
June 24, 2009.....	1.401500
June 25, 2009.....	1.395300
June 26, 2009.....	1.405600
June 27, 2009.....	1.405600
June 28, 2009.....	1.405600
June 29, 2009.....	1.405800
June 30, 2009.....	1.402000

South Korea won:

June 1, 2009.....	0.000811
June 2, 2009.....	0.000810

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list
for June, 2009 (continued):

South Korea won: (continued):

June 3, 2009.....	0.000812
June 4, 2009.....	0.000802
June 5, 2009.....	0.000802
June 6, 2009.....	0.000802
June 7, 2009.....	0.000802
June 8, 2009.....	0.000802
June 9, 2009.....	0.000795
June 10, 2009.....	0.000798
June 11, 2009.....	0.000801
June 12, 2009.....	0.000803
June 13, 2009.....	0.000803
June 14, 2009.....	0.000803
June 15, 2009.....	0.000796
June 16, 2009.....	0.000796
June 17, 2009.....	0.000788
June 18, 2009.....	0.000791
June 19, 2009.....	0.000791
June 20, 2009.....	0.000791
June 21, 2009.....	0.000791
June 22, 2009.....	0.000782
June 23, 2009.....	0.000780
June 24, 2009.....	0.000786
June 25, 2009.....	0.000778
June 26, 2009.....	0.000782
June 27, 2009.....	0.000782
June 28, 2009.....	0.000782
June 29, 2009.....	0.000782
June 30, 2009.....	0.000785

Taiwan N.T. dollar:

June 1, 2009.....	0.030902
June 2, 2009.....	0.030893
June 3, 2009.....	0.030779
June 4, 2009.....	0.030694
June 5, 2009.....	0.030637
June 6, 2009.....	0.030637
June 7, 2009.....	0.030637
June 8, 2009.....	0.030423
June 9, 2009.....	0.030544
June 10, 2009.....	0.030600
June 11, 2009.....	0.030562
June 12, 2009.....	0.030497
June 13, 2009.....	0.030497
June 14, 2009.....	0.030497
June 15, 2009.....	0.030358
June 16, 2009.....	0.030423
June 17, 2009.....	0.030340
June 18, 2009.....	0.030414
June 19, 2009.....	0.030432
June 20, 2009.....	0.030432

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list
for June, 2009 (continued):

Taiwan N.T. dollar: (continued):

June 21, 2009.....	0.030432
June 22, 2009.....	0.030404
June 23, 2009.....	0.030414
June 24, 2009.....	0.030441
June 25, 2009.....	0.030349
June 26, 2009.....	0.030349
June 27, 2009.....	0.030349
June 28, 2009.....	0.030349
June 29, 2009.....	0.030395
June 30, 2009.....	0.030516

Dated: July 1, 2009

MARGARET T. BLOM
Customs Information Exchange
Pgm Mgmt Staff

(CBP DEC. 09-33)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR JUNE, 2009

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in CBP Decision 09-31 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): none

Australia dollar:

June 1, 2009.....	0.810100
June 2, 2009.....	0.819400
June 3, 2009.....	0.810300
June 4, 2009.....	0.799000
June 5, 2009.....	0.801200
June 6, 2009.....	0.801200
June 7, 2009.....	0.801200
June 8, 2009.....	0.785100
June 9, 2009.....	0.798000
June 10, 2009.....	0.804300

FOREIGN CURRENCIES—Variances from quarterly rates for June,
2009 (continued):

Australia dollar: (continued):

June 11, 2009.....	0.819500
June 12, 2009.....	0.813200
June 13, 2009.....	0.813200
June 14, 2009.....	0.813200
June 15, 2009.....	0.792000
June 16, 2009.....	0.800000
June 17, 2009.....	0.788700
June 18, 2009.....	0.803800
June 19, 2009.....	0.811100
June 20, 2009.....	0.811100
June 21, 2009.....	0.811100
June 22, 2009.....	0.789600
June 23, 2009.....	0.790100
June 24, 2009.....	0.802800
June 25, 2009.....	0.799000
June 26, 2009.....	0.805300
June 27, 2009.....	0.805300
June 28, 2009.....	0.805300
June 29, 2009.....	0.806600
June 30, 2009.....	0.805500

Brazil real:

June 1, 2009.....	0.514086
June 2, 2009.....	0.515411
June 3, 2009.....	0.513505
June 4, 2009.....	0.513954
June 5, 2009.....	0.510048
June 6, 2009.....	0.510048
June 7, 2009.....	0.510048
June 8, 2009.....	0.505587
June 9, 2009.....	0.514192
June 10, 2009.....	0.512978
June 11, 2009.....	0.513163
June 12, 2009.....	0.520454
June 13, 2009.....	0.520454
June 14, 2009.....	0.520454
June 15, 2009.....	0.513347
June 16, 2009.....	0.513479
June 17, 2009.....	0.503651
June 18, 2009.....	0.509918
June 19, 2009.....	0.511771
June 20, 2009.....	0.511771
June 21, 2009.....	0.511771
June 22, 2009.....	0.496574
June 23, 2009.....	0.499351
June 24, 2009.....	0.508906
June 25, 2009.....	0.509372
June 26, 2009.....	0.514297
June 27, 2009.....	0.514297

FOREIGN CURRENCIES—Variances from quarterly rates for June,
2009 (continued):

Brazil real: (continued):

June 28, 2009.....	0.514297
June 29, 2009.....	0.510986
June 30, 2009.....	0.508828

Canada dollar:

June 1, 2009.....	0.919963
June 2, 2009.....	0.923532
June 3, 2009.....	0.911328
June 4, 2009.....	0.909339
June 5, 2009.....	0.897344
June 6, 2009.....	0.897344
June 7, 2009.....	0.897344
June 8, 2009.....	0.890631
June 9, 2009.....	0.905633
June 10, 2009.....	0.900901
June 11, 2009.....	0.910996
June 12, 2009.....	0.895255
June 13, 2009.....	0.895255
June 14, 2009.....	0.895255
June 15, 2009.....	0.881990
June 16, 2009.....	0.883002
June 17, 2009.....	0.879430
June 18, 2009.....	0.887075
June 19, 2009.....	0.885975
June 20, 2009.....	0.885975
June 21, 2009.....	0.885975
June 22, 2009.....	0.866026
June 23, 2009.....	0.865276
June 24, 2009.....	0.872448
June 25, 2009.....	0.863856
June 26, 2009.....	0.867528
June 27, 2009.....	0.867528
June 28, 2009.....	0.867528
June 29, 2009.....	0.863558
June 30, 2009.....	0.860141

Denmark krone:

June 1, 2009.....	0.190563
June 2, 2009.....	0.191663
June 3, 2009.....	0.190585
June 4, 2009.....	0.190567
June 5, 2009.....	0.187906
June 6, 2009.....	0.187906
June 7, 2009.....	0.187906
June 9, 2009.....	0.188235
June 10, 2009.....	0.187882
June 11, 2009.....	0.189283
June 12, 2009.....	0.188619

FOREIGN CURRENCIES—Variances from quarterly rates for June,
2009 (continued):

Denmark krone: (continued):

June 13, 2009.....	0.188619
June 14, 2009.....	0.188619
June 18, 2009.....	0.187786
June 19, 2009.....	0.188104
June 20, 2009.....	0.188104
June 21, 2009.....	0.188104
June 23, 2009.....	0.188601
June 24, 2009.....	0.188274
June 25, 2009.....	0.187364
June 26, 2009.....	0.188772
June 27, 2009.....	0.188772
June 28, 2009.....	0.188772
June 29, 2009.....	0.188815
June 30, 2009.....	0.188278

India rupee:

June 1, 2009.....	0.021377
June 2, 2009.....	0.021349
June 3, 2009.....	0.021331
June 4, 2009.....	0.021191
June 5, 2009.....	0.021254
June 6, 2009.....	0.021254
June 7, 2009.....	0.021254
June 8, 2009.....	0.021053
June 9, 2009.....	0.021142
June 10, 2009.....	0.021195
June 11, 2009.....	0.021057
June 12, 2009.....	0.021008
June 13, 2009.....	0.021008
June 14, 2009.....	0.021008
June 15, 2009.....	0.020978
June 16, 2009.....	0.021004
June 30, 2009.....	0.020947

Mexico peso:

June 1, 2009.....	0.076005
June 29, 2009.....	0.075850
June 30, 2009.....	0.075930

New Zealand dollar:

June 1, 2009.....	0.650900
June 2, 2009.....	0.655100
June 3, 2009.....	0.639700
June 4, 2009.....	0.631500
June 5, 2009.....	0.632800
June 6, 2009.....	0.632800
June 7, 2009.....	0.632800

FOREIGN CURRENCIES—Variances from quarterly rates for June,
2009 (continued):

New Zealand dollar: (continued):

June 8, 2009.....	0.617800
June 9, 2009.....	0.624600
June 10, 2009.....	0.629500
June 11, 2009.....	0.645500
June 12, 2009.....	0.642800
June 13, 2009.....	0.642800
June 14, 2009.....	0.642800
June 15, 2009.....	0.629000
June 16, 2009.....	0.634500
June 17, 2009.....	0.628500
June 18, 2009.....	0.643700
June 19, 2009.....	0.647600
June 20, 2009.....	0.647600
June 21, 2009.....	0.647600
June 22, 2009.....	0.631600
June 23, 2009.....	0.636500
June 24, 2009.....	0.645900
June 25, 2009.....	0.643000
June 26, 2009.....	0.644500
June 27, 2009.....	0.644500
June 28, 2009.....	0.644500
June 29, 2009.....	0.650400
June 30, 2009.....	0.644700

Norway krone:

June 1, 2009.....	0.161627
June 2, 2009.....	0.161540
June 3, 2009.....	0.158203
June 4, 2009.....	0.159005
June 9, 2009.....	0.157488
June 10, 2009.....	0.156654
June 11, 2009.....	0.157898
June 12, 2009.....	0.158123
June 13, 2009.....	0.158123
June 14, 2009.....	0.158123
June 18, 2009.....	0.157055
June 19, 2009.....	0.157201
June 20, 2009.....	0.157201
June 21, 2009.....	0.157201

Republic of South Africa rand:

June 1, 2009.....	0.125905
June 2, 2009.....	0.124556
June 3, 2009.....	0.123762
June 4, 2009.....	0.124750
June 5, 2009.....	0.124533
June 6, 2009.....	0.124533
June 7, 2009.....	0.124533

FOREIGN CURRENCIES—Variances from quarterly rates for June,
2009 (continued):

Republic of South Africa rand: (continued):

June 8, 2009.....	0.122167
June 9, 2009.....	0.123533
June 10, 2009.....	0.123991
June 11, 2009.....	0.125392
June 12, 2009.....	0.124649
June 13, 2009.....	0.124649
June 14, 2009.....	0.124649
June 15, 2009.....	0.123381
June 16, 2009.....	0.124805
June 17, 2009.....	0.122926
June 18, 2009.....	0.123236
June 19, 2009.....	0.123916
June 20, 2009.....	0.123916
June 21, 2009.....	0.123916
June 22, 2009.....	0.121988
June 23, 2009.....	0.122362
June 24, 2009.....	0.124611
June 25, 2009.....	0.124969
June 26, 2009.....	0.126518
June 27, 2009.....	0.126518
June 28, 2009.....	0.126518
June 29, 2009.....	0.127828
June 30, 2009.....	0.129366

Singapore dollar:

June 1, 2009.....	0.693577
June 2, 2009.....	0.695410
June 3, 2009.....	0.693001

Sweden krona:

June 1, 2009.....	0.135302
June 2, 2009.....	0.133188
June 3, 2009.....	0.130627
June 4, 2009.....	0.130804
June 5, 2009.....	0.128730
June 6, 2009.....	0.128730
June 7, 2009.....	0.128730
June 9, 2009.....	0.129734
June 10, 2009.....	0.130081
June 11, 2009.....	0.130668
June 12, 2009.....	0.130796
June 13, 2009.....	0.130796
June 14, 2009.....	0.130796
June 26, 2009.....	0.128404
June 27, 2009.....	0.128404
June 28, 2009.....	0.128404
June 29, 2009.....	0.129378
June 30, 2009.....	0.129396

FOREIGN CURRENCIES—Variances from quarterly rates for June,
2009 (continued):

Switzerland franc:

June 1, 2009.....	0.935629
June 2, 2009.....	0.941265
June 3, 2009.....	0.935979
June 4, 2009.....	0.936417
June 5, 2009.....	0.921489
June 6, 2009.....	0.921489
June 7, 2009.....	0.921489
June 9, 2009.....	0.924044
June 10, 2009.....	0.924556
June 11, 2009.....	0.932749
June 12, 2009.....	0.929714
June 13, 2009.....	0.929714
June 14, 2009.....	0.929714
June 16, 2009.....	0.921404
June 17, 2009.....	0.919963
June 18, 2009.....	0.923617
June 19, 2009.....	0.928247
June 20, 2009.....	0.928247
June 21, 2009.....	0.928247
June 22, 2009.....	0.919540
June 23, 2009.....	0.933968
June 24, 2009.....	0.922339
June 26, 2009.....	0.921150
June 27, 2009.....	0.921150
June 28, 2009.....	0.921150
June 29, 2009.....	0.921744
June 30, 2009.....	0.920217

United Kingdom pound sterling:

June 1, 2009.....	1.644800
June 2, 2009.....	1.651500
June 3, 2009.....	1.640500
June 4, 2009.....	1.617300
June 5, 2009.....	1.601700
June 6, 2009.....	1.601700
June 7, 2009.....	1.601700
June 8, 2009.....	1.597600
June 9, 2009.....	1.626700
June 10, 2009.....	1.633400
June 11, 2009.....	1.654700
June 12, 2009.....	1.652300
June 13, 2009.....	1.652300
June 14, 2009.....	1.652300
June 15, 2009.....	1.626800
June 16, 2009.....	1.644600
June 17, 2009.....	1.629300
June 18, 2009.....	1.636900
June 19, 2009.....	1.653700
June 20, 2009.....	1.653700

FOREIGN CURRENCIES—Variances from quarterly rates for June,
2009 (continued):

United Kingdom pound sterling: (continued):

June 21, 2009.....	1.653700
June 22, 2009.....	1.634300
June 23, 2009.....	1.634400
June 24, 2009.....	1.648600
June 25, 2009.....	1.633600
June 26, 2009.....	1.649800
June 27, 2009.....	1.649800
June 28, 2009.....	1.649800
June 29, 2009.....	1.653300
June 30, 2009.....	1.645200

Dated: July 1, 2009

MARGARET T. BLOM
Customs Information Exchange
Pgm Mgmt Staff

**QUARTERLY IRS INTEREST RATES USED IN
CALCULATING INTEREST ON OVERDUE ACCOUNTS AND
REFUNDS ON CUSTOMS DUTIES**

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

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning July 1, 2009, the interest rates for overpayments will be 3 percent for corporations and 4 percent for non-corporations, and the interest rate for underpayments will be 4 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

EFFECTIVE DATE: [July 1, 2009]

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614-4516.

SUPPLEMENTARY INFORMATION:**Background**

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2009–17, the IRS determined the rates of interest for the calendar quarter beginning July 1, 2009, and ending on September 30, 2009. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%). For corporate overpayments, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%). These interest rates are subject to change for the calendar quarter beginning October 1, 2009, and ending December 31, 2009.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning Date	Ending Date	Under-payments (percent)	Over-payments (percent)	Corporate Overpayments (Eff. 1–1–99) (percent)
070174	063075	6%	6%	
070175	013176	9%	9%	
020176	013178	7%	7%	
020178	013180	6%	6%	
020180	013182	12%	12%	
020182	123182	20%	20%	
010183	063083	16%	16%	
070183	123184	11%	11%	

Beginning Date	Ending Date	Under- payments (percent)	Over- payments (percent)	Corporate Overpayments (Eff. 1-1-99) (percent)
010185	063085	13%	13%	
070185	123185	11%	11%	
010186	063086	10%	10%	
070186	123186	9%	9%	
010187	093087	9%	8%	
100187	123187	10%	9%	
010188	033188	11%	10%	
040188	093088	10%	9%	
100188	033189	11%	10%	
040189	093089	12%	11%	
100189	033191	11%	10%	
040191	123191	10%	9%	
010192	033192	9%	8%	
040192	093092	8%	7%	
100192	063094	7%	6%	
070194	093094	8%	7%	
100194	033195	9%	8%	
040195	063095	10%	9%	
070195	033196	9%	8%	
040196	063096	8%	7%	
070196	033198	9%	8%	
040198	123198	8%	7%	
010199	033199	7%	7%	6%
040199	033100	8%	8%	7%
040100	033101	9%	9%	8%
040101	063001	8%	8%	7%
070101	123101	7%	7%	6%
010102	123102	6%	6%	5%
101030	093003	5%	5%	4%
100103	033104	4%	4%	3%
040104	063004	5%	5%	4%
070104	093004	4%	4%	3%
100104	033105	5%	5%	4%
040105	093005	6%	6%	5%
100105	063006	7%	7%	6%
070106	123107	8%	8%	7%
010108	033108	7%	7%	6%
040108	063008	6%	6%	5%
070108	093008	5%	5%	4%
100108	123108	6%	6%	5%
010109	033109	5%	5%	4%
040109	093009	4%	4%	3%

Dated: July 27, 2009

JAYSON P. AHERN
Acting Commissioner
U.S. Customs and Border Protection

[Published in the Federal Register, July 31, 2009 (74 FR 38213)]

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.

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. Arrangements 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. Applications must be completed and submitted electronically.

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).

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 Government 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.

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:
Declaration for Free Entry of Returned American Products**

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

ACTION: 30-Day notice and request for comments; Revision of an existing information collection: 1651-0011

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: Declaration for Free Entry of Returned American Products. 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** (74 FR 23876) on May 21, 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 11, 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 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: Declaration of Free Entry of Returned American Products

OMB Number: 1651-0011

Form Number: Form-3311

Abstract: When free entry is claimed for a shipment of returned American products under the Harmonized Tariff Schedules of the United States (HTSUS), Form-3311 is one of the supporting documents which substantiates the claim for duty free status. The burden hours were decreased for this information collection as a result of revised estimates by CBP. No substantive changes were made to this information collection.

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

Type of Review: Extension (with change)

Estimated Number of Respondents: 12,000

Estimated Number of Annual Responses per Respondent:
35

Estimated Number of Total Responses: 420,000

Estimated Time Per Respondent: 6 minutes

Estimated Total Annual Burden Hours: 42,000

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: August 6, 2009

TRACEY DENNING
Agency Clearance Officer
Customs and Border Protection

**AGENCY INFORMATION COLLECTION ACTIVITIES:
Foreign Assembler's Declaration
(with Endorsement by Importer)**

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: 1651-0031

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: Foreign Assembler's Declaration (with Endorsement by Importer). 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 28712) on June 17, 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 [August 31, 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 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: Foreign Assembler's Declaration (with Endorsement by Importer)

OMB Number: 1651-0031

Form Number: None

Abstract: The Foreign Assembler's Declaration with Importer's Endorsement is used by CBP to substantiate a claim for duty free treatment of U.S. fabricated components sent abroad for assembly and subsequently returned to the United States

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: Businesses

Estimated Number of Respondents: 2,730

Estimated Annual Burden per Respondent: 110.77 hours

Estimated Total Annual Burden Hours: 302,402

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 27, 2009

TRACEY DENNING
Agency Clearance Officer
Customs and Border Protection

[Published in the Federal Register, July 31, 2009 (74 FR 38212)]

**AGENCY INFORMATION COLLECTION ACTIVITIES:
Free Admittance Under Conditions Of Emergency**

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: 1651-0044

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: Free Admittance Under Conditions of Emergency. 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 23737) on May 20, 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 [August 26, 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 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: Free Admittance Under Conditions of Emergency

OMB Number: 1651-0044

Form Number: None

Abstract: This collection of information will be used in the event of an emergency or catastrophic event to monitor goods temporarily admitted into the United States for the purpose of rescue or relief.

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: Nonprofit Assistance Organizations

Estimated Number of Respondents: 1

Estimated Time Per Respondent: 1 hour

Estimated Total Annual Burden Hours: 1

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 21, 2009

TRACEY DENNING
Agency Clearance Officer
Customs and Border Protection

[Published in the Federal Register, July 27, 2009 (74 FR 37043)]

**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 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 Respondent: 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

[Published in the Federal Register (74 FR 38663)]

**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 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)]



GENERAL NOTICE
Grant Of “Lever-Rule” Protection

AGENCY: Customs and Border Protection, Department of Homeland Security

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

SUMMARY: Pursuant to 19 CFR § 133.2(f), this notice advises interested parties that Customs & Border Protection (CBP) has granted *Lever-rule* protection to Chopard USA Ltd. Notice of the receipt of an application for *Lever-Rule* protection was published in the January 2, 2009, issue of the *Customs Bulletin*.

FOR FURTHER INFORMATION CONTACT: John D. McCloggott, Intellectual Property Rights & Restricted Merchandise Branch, Regulations & Rulings, Office of International Trade (202) 325-0091.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 CFR § 133.2(f), this notice advises interested parties that CBP has granted *Lever*-rule protection for CHOPARD and CHOPARD GENÈVE watches.

In accordance with the decisions in *Davidoff & CIE v. PLD Int'l Corp.*, 263 F. 3d 1297 (11th Cir. 2001), *Societe Des Produits Nestle, S.A. v. Casa Helvetia, Inc.*, 982 F.2d 633 (1st Cir. 1992) and *Ferrero U.S.A., Inc. v. Ozak Trading, Inc.*, 753 F. Supp. 1240 (D.N.J), aff'd 935 F.2d 1281 (3d Cir. 1991), CBP has determined that the above-referenced gray market CHOPARD and CHOPARD GENÈVE watches differ physically and materially from the CHOPARD and CHOPARD GENÈVE watches authorized for sale in the United States in one or more of the following respects: accompanying documentation contains a foreign language; differences in warranty documentation due to statutory and regulatory standards; and products lack a valid manufacturer's warranty.

Enforcement

Importation of the above-referenced subject gray market CHOPARD and CHOPARD GENÈVE watches is restricted, unless the labeling requirements of 19 CFR § 133.23(b) are satisfied.

Dated: August 12, 2009

RICHARD F. CHOVANEC,
*Acting Chief Intellectual Property Rights &
Restricted Merchandise Branch
Regulations & Rulings
Office of International Trade*

GENERAL NOTICE

**Dates And Draft Agenda Of The Forty-Fourth Session Of
The Harmonized System Committee Of The World Customs
Organization**

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

ACTION: Publication of the dates and draft agenda for the forty-fourth session of the Harmonized System Committee of the World Customs Organization.

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

DATES: September 21, 2009 to October 2, 2009

FOR FURTHER INFORMATION CONTACT: Joan A. Jackson, Staff Assistant, Tariff Classification and Marking Branch, U.S. Customs and Border Protection (202-325-0010), or David Beck, Director, Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission (202-205-2592).

SUPPLEMENTARY INFORMATION:

Background

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

Article 6 of the Harmonized System Convention establishes a Harmonized System Committee (“HSC”). The HSC is composed of representatives from each of the contracting parties to the Harmonized System Convention. The HSC’s responsibilities include issuing classification decisions on the interpretation of the Harmonized System. Those decisions may take the form of published tariff classification opinions concerning the classification of an article under the Harmonized System or amendments to the Explanatory Notes to the Harmonized System. The HSC also considers amendments to the legal text of the Harmonized System. The HSC meets twice a year in Brussels, Belgium. The next session of the HSC will be the forty-fourth and it will be held from September 21, 2009 to October 2, 2009.

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

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

GAIL A. HAMILL,
Chief

Tariff Classification and Marking Branch

Attachment



**PROPOSED REVOCATION OF TWO RULING LETTERS
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF
PELLICLES**

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

ACTION: Notice of proposed revocation of two tariff classification ruling letters and proposed revocation of treatment relating to the classification of pellicles.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625 (c)), this notice advises interested parties that U.S. Customs and Border Protection (“CBP”) is proposing to revoke two ruling letters relating to the tariff classification of pellicles under the Harmonized Tariff Schedule of the United States (“HTSUS”). CBP also proposes to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATES: Comments must be received on or before [September 28, 2009].

ADDRESSES: Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Commercial Trade and Regulations Branch, 799 9th St., N.W., 5th Floor, Washington, D.C., 20229–1179. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street N.W., Washington, D.C., 20229, 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: Richard Mojica, Tariff Classification and Marking Branch, at (202) 325–0032.

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, this notice advises interested parties that CBP intends to revoke two ruling letters pertaining to the tariff classification of pellicles. Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter (“NY”) I87349, dated October 29, 2002 (Attachment A), and NY G88540, dated April 12, 2001 (Attachment B), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during 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 intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer’s failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its

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

In NY I87349 and NY G88540, CBP classified certain pellicles under heading 9002, HTSUS, which provides in relevant part for: “Optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked[.]” We have reviewed those rulings and determined that the classification set forth therein is incorrect. It is now our position that the subject pellicles are properly classified under heading 8486, HTSUS, specifically in subheading 8486.90.00, which provides in relevant part for: “Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays; ... parts and accessories: Parts and accessories.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY I87349, NY G88540, and any other ruling not specifically identified, to reflect the proper classification of pellicles according to the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H055635 (Attachment C) and HQ H055636 (Attachment D). 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: August 6, 2009

GAIL A. HAMILL for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

NY I87349
October 29, 2002
CLA-2-90:RR:NC:MM:114 I87349
CATEGORY: Classification
TARIFF NO.: 9002.90.9500

MS. DEMETRIUS D. JONES
YUSEN GLOBAL LOGISTICS
691 AIRPORT SOUTH PARKWAY
COLLEGE PARK, GA 30349

RE: The tariff classification of pellicles

DEAR MS. JONES:

In your letter dated October 15, 2002, on behalf of Mitsui Chemicals America, Inc., you requested a tariff classification ruling. A sample of a pellicle was furnished with your request for a ruling.

The Mitsui pellicles consist of a membrane of nitrocellulose, modified cellulose, or fluoropolymer mounted on a frame of aluminum alloy. Pellicles provide a high level of cleanliness and have excellent optical properties. Pellicles are used with the photomask in a photolithography process to transfer reduced-sized patterns from the photomask to sensitized semiconductor wafers and materials. The pellicles are applied to photomasks during the lithography process in order to protect the photomask. In addition to protecting the photomask, pellicles transmit more than 99 percent of light from the photolithography process in a uniform way.

The sample of the pellicle is being returned to you as requested.

The applicable subheading for the pellicles will be 9002.90.9500, Harmonized Tariff Schedule of the United States (HTS), which provides for lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other, other. The rate of duty will be 3 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Barbara Kiefer at 646-733-3019.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT B]

NY G88540
April 12, 2001
CLA-2-90:RR:NC:MM:114 G88540
CATEGORY: Classification
TARIFF NO.: 9002.90.9500

MR. ED KWAS
EXPEDITORS TRADEWIN, LLC
1015 THIRD AVENUE, 12TH FLOOR
SEATTLE, WA 98104

RE: The tariff classification of pellicles from Japan

DEAR MR. KWAS:

In your letter dated March 19, 2001 on behalf of Dupont Phototmasks, Inc., you requested a tariff classification ruling.

The pellicle is an ultrathin piece of plastic film that is mounted on a plastic frame. The plastic film is composed of modified fluoropolymer, Teflon or nitrocellulose. The pellicle covers a photomask to provide a contaminant-free environment for the photomask. The photomask is a quartz or glass plate containing precision images of integrated circuits. The photomask and the pellicle are used in a photolithography process to transfer reduced-sized patterns from the photomask to sensitized semiconductor wafers and materials. Pellicles have optical properties that allow the pellicles to transmit and to reflect light. The main optical function of the pellicle is to transmit light. Pellicles are manufactured to various optical wavelengths required for semiconductor manufacturing. As examples, the G-line operates at 436 nanometers and the H-line operates at 365 nanometers. The pellicle is used in an optical application in the photolithography process by transmitting

The applicable subheading for the pellicles will be 9002.90.9500, Harmonized Tariff Schedule of the United States (HTS), which provides for other optical elements, of any material, mounted, being parts of or fittings for instruments and apparatus. The rate of duty will be 3 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Barbara Kiefer at 212-637-7058.

Sincerely,

ROBERT B. SWIERUPSKI
Director,

National Commodity Specialist Division

[ATTACHMENT C]

HQ H055635
CLA-2 OT:RR:CTF:TCM H055635 RM
CATEGORY: Classification
TARIFF NO.: 8486.90.00

MS. DEMETRIUS D. JONES
YUSEN GLOBAL LOGISTICS
691 AIRPORT S. PARKWAY
COLLEGE PARK, GA 30349

RE: Revocation of New York Ruling Letter I87349, dated October 29, 2002;
Classification of Pellicles

DEAR MS. JONES:

This is in reference to New York Ruling Letter (“NY”) I87349, dated October 29, 2002, issued to you on behalf of Mitsui Chemicals America, Inc., concerning the tariff classification of pellicles. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the pellicles under heading 9002, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for: “Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked; parts and accessories thereof.” We have reviewed the ruling and found this classification to be incorrect.

FACTS:

In NY I87349, we described the merchandise as follows:

The Mitsui pellicles consist of a membrane of nitrocellulose, modified cellulose, or fluoropolymer mounted on a frame of aluminum alloy. Pellicles provide a high level of cleanliness and have excellent optical properties. Pellicles are used with the photomask in a photolithography process to transfer reduced-sized patterns from the photomask to sensitized semiconductor wafers and materials.¹ The pellicles are applied to photomasks during the lithography process in order to protect the photomask. In addition to protecting the photomask, pellicles transmit more than 99 percent of light from the photolithography process in a uniform way.

We have since received information indicating that the pellicles at issue do not reflect light.² They merely transmit the light that shines through them. According to the Semiconductor Equipment and Materials International

¹ Photolithography is a multi-step process that creates integrated circuit patterns on semiconductor wafers. The process is as follows: a photomask is fed into a step-and-repeat aligner which shines ultraviolet light through the transparent areas of the mask and onto a wafer coated with photoresist. The exposed photoresist hardens and becomes impervious to etchants. The unexposed photoresist is subjected to an etch process and removed using chemical solvents, leaving a nitride pattern on the wafer in the exact design of the mask. The resulting pattern is then repeatedly “stepped” (i.e., projected repeatedly across wafer’s surface), one die at a time, until full coverage is achieved. A typical IC requires twenty to forty individual steps. See Microchip Fabrication: A Practical Guide to Semiconductor Processing by Peter Van Zant (McGraw Hill, 5th ed, pp. 198–203, 241–279). See also <http://www.infras.com/Tutorial/sld005.htm>.

² The pellicles at issue are not “pellicle mirrors,” devices that split a beam of light in two whereby one half is reflected and the other is transmitted.

(“SEMI”) International Standards: Compilation of Terms (available at www.semi.org, updated November 2008), a “pellicle” is:

[A] thin, optically transparent film typically of a polymer, attached to and supported by a frame, and attached to a photomask [an opaque plate with holes that contains the patterns to be reproduced on a substrate] (also known as a “reticle”). Its purpose is to seal out contaminants and reduce the printed effects caused by contamination in the image plane of an optical exposure system with a minimum decrease in the quality of optical transmission.

Technical information on pellicles, available on the website of a leading supplier (www.mliusa.com/technology-paper.htm), explains that there are two types: “soft” pellicles, made of transparent fluorocarbon-based polymers, and “hard” pellicles, made of quartz glass. The pellicles at issue are soft pellicles.

ISSUE:

Whether the pellicles are classified under heading 9002, HTSUS, as optical elements, or under heading 8486, HTSUS, as parts of machines of a kind used solely or principally for the manufacture of semiconductor devices.

LAW AND ANALYSIS:

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

The 2009 HTSUS provisions under consideration are as follows:

8486	Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays; machines and apparatus specified in Note 9 (C) to this chapter; parts and accessories:
8486.90.00	Parts and accessories ...
9002	Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked; parts and accessories thereof:
9002.90	Other:
	Other:
9002.90.95	Other ...

Legal Note 2 to Section XVI, HTSUS, provides, in relevant part:

Subject to note 1 to this section, note 1 to chapter 84 and note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

* * *

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 are to be classified in heading 8517[.]

The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the Harmonized System at the international level. While not 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).

The ENs to heading 8486 provide, in part:

This heading covers machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays ...

* * *

(B) MACHINES AND APPARATUS FOR THE MANUFACTURE OF SEMICONDUCTOR DEVICES OR OF ELECTRONIC INTEGRATED CIRCUITS

This heading covers machines and apparatus for the manufacture of semiconductor devices or of electronic integrated circuits such as:

* * *

(4) **Lithography equipment**, which transfer the circuit designs to the photoresist-coated surface of the semiconductor wafer such as:

(b) **Equipment for exposing the photoresist coated wafer with the circuit design** (or a part thereof):

(i) **Using a mask or reticle and exposing the photoresist to light** (generally ultraviolet) or, in some instances, X-rays:

(a) **Contact printers ...**

(b) **Proximity aligners ...**

(c) **Scanning aligners ...**

(d) **Step and repeat aligners**, which use projection techniques to expose the wafer a portion at a time. Exposure can be by reduction from the mask to the wafer or 1:1. Enhancements include the use of an excimer laser.

(E) PARTS AND ACCESSORIES

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), the heading includes parts and accessories for the machines and apparatus of this heading. Parts and accessories falling in this heading thus include, *inter alia*, work or tool holders and other special attachments which are solely or principally used for the machines and apparatus of this heading.

The ENs to heading 9002, HTSUS, provide, in part:

With the exception of ophthalmic lenses (which when mounted constitute spectacles, lorgnettes or the like of **heading 90.04**), this heading covers the articles referred to in Items (B), (C) and (D) of the Explanatory Note to heading 90.01 when in a permanent mounting (*viz.*, fitted in a support or frame, etc.) suitable for fitting to an apparatus or instrument.

The ENs to heading 9001, HTSUS, provide, in part:

This heading covers:

(D) Optical elements of any material other than glass, whether or not optically worked, not permanently mounted ...

Optical elements are manufactured in such a way that they produce a required optical effect. An optical element does more than merely allow light (visible, ultraviolet or infrared) to pass through it, rather the passage of light must be altered in some way, for example, by being reflected, attenuated, filtered, diffracted, collimated, etc. (emphasis added).

* * *

Some of the optical elements listed above (lenses, prisms, etc.) may be colored, or coated with an anti reflection film of cryolite, calcium or magnesium fluoride, etc. This does not affect their classification in this heading.

Heading 9002, HTSUS, provides in part for “Optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus” CBP has held, consistent with EN 90.01 (incorporated by reference into EN 90.02), that an “optical element” is one that produces an optical effect. See, e.g., HQ 966475, dated October 23, 2003. That is, it must “[do] more than merely allow light (visible, ultraviolet or infrared) to pass through it, rather the passage of light must be altered in some way, for example, by being reflected, attenuated, filtered, diffracted, collimated, etc.” See EN 90.01. See also NY N049895, dated February 10, 2009. The pellicles at issue do not alter (e.g., reflect, attenuate, filter, diffract or collimate) the light that passes through them. To the contrary, they are intentionally designed to reduce their reflectivity and to optimize light transmission. As such, we conclude that they are not “optical elements” of heading 9002, HTSUS.

Heading 8486, HTSUS, provides, in relevant part, for: “Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays; ... parts and accessories.” It is undisputed that the subject pellicles are “parts” of a kind used solely with lithography equipment which transfer the circuit designs to the photo-resist coated surface of a semiconductor wafer. See Bauerhin Technologies Limited Partnership, & John V. Carr & Son, Inc. v. United States, 110 F.3d 774, 777 (Fed. Cir. 1997) (“[A]n imported item dedicated solely for use with another article is a “part” of that article within the meaning of the HTSUS”). Specifically, they are “parts” of step-and-repeat aligners. See EN 84.86 (B)(4)(b)(i)(d).

Note 2(b) to Section XVI, HTSUS, provides that “parts” that are suitable for use solely or principally with a particular kind of machine are classified with that machine. As such, we find that the pellicles are classified under heading 8486, specifically in subheading 8486.90, HTSUS, as “parts” of machines and apparatus of a kind used solely for the manufacture of integrated circuits.

HOLDING:

By application of GRI 1 and Note 2(b) to Section XVI, the subject pellicles are classified under heading 8486, HTSUS, specifically in subheading 8486.90.00, which provides for: “Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays; ... parts and accessories: Parts and accessories.” The 2009 column one, general rate of duty is Free.

EFFECT ON OTHER RULINGS:

NY I87349, dated October 29, 2002, is hereby revoked.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

[ATTACHMENT D]

HQ H055636
CLA-2 OT:RR:CTF:TCM H055636 RM
CATEGORY: Classification
TARIFF NO.: 8486.90.00

GARTH ATCHLEY
SENIOR MANAGER
EXPEDITERS TRADEWIN LLC
150 RARATIN CENTER PARKWAY
EDISON, NJ 08837

RE: Revocation of New York Ruling Letter G88540, dated April 12, 2001;
Classification of Pellicles

DEAR MR. ATCHLEY:

This is in reference to New York Ruling Letter (“NY”) G88540, dated April 12, 2001, issued to you on behalf of Dupont Photomasks, Inc., concerning the tariff classification of pellicles. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the pellicles under heading 9002, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for: “Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked; parts and accessories thereof.” We have reviewed the ruling and found this classification to be incorrect.

FACTS:

In NY G88540, we described the merchandise as follows:

The pellicle is an ultrathin piece of plastic film that is mounted on a plastic frame. The plastic film is composed of modified fluoropolymer, Teflon or nitrocellulose. The pellicle covers a photomask to provide a contaminant-free environment for the photomask. The photomask is a quartz or glass plate containing precision images of integrated circuits. The photomask and the pellicle are used in a photolithography process to transfer reduced-sized patterns from the photomask to sensitized semiconductor wafers and materials.³ Pellicles have optical properties that allow the pellicles to transmit and to reflect light. The main optical function of the pellicle is to transmit light. Pellicles are manufactured to various optical wavelengths required for semiconductor manufacturing.

As examples, the G-line operates at 436 nanometers and the H-line operates at 365 nanometers. The pellicle is used in an optical application

³ Photolithography is a multi-step process that creates integrated circuit patterns on semiconductor wafers. The process is as follows: a photomask is fed into a step-and-repeat aligner which shines ultraviolet light through the transparent areas of the mask and onto a wafer coated with photoresist. The exposed photoresist hardens and becomes impervious to etchants. The unexposed photoresist is subjected to an etch process and removed using chemical solvents, leaving a nitride pattern on the wafer in the exact design of the mask. The resulting pattern is then repeatedly “stepped” (i.e., projected repeatedly across wafer’s surface), one die at a time, until full coverage is achieved. A typical IC requires twenty to forty individual steps. See *Microchip Fabrication: A Practical Guide to Semiconductor Processing* by Peter Van Zant (McGraw Hill, 5th ed, pp. 198–203, 241–279). See also <http://www.infras.com/Tutorial/sld005.htm>.

in the photolithography process by transmitting light from the stepper through the photomask onto the sensitized semiconductor wafer.

We have since received information indicating that the pellicles at issue do not reflect light.⁴ They merely transmit the light that shines through them. According to the Semiconductor Equipment and Materials International (“SEMI”) International Standards: Compilation of Terms (available at www.semi.org, updated November 2008), a “pellicle” is:

[A] thin, optically transparent film typically of a polymer, attached to and supported by a frame, and attached to a photomask [an opaque plate with holes that contains the patterns to be reproduced on a substrate] (also known as a “reticle”). Its purpose is to seal out contaminants and reduce the printed effects caused by contamination in the image plane of an optical exposure system with a minimum decrease in the quality of optical transmission.

Technical information on pellicles, available on the website of a leading supplier (www.mliusa.com/technology-paper.htm), explains that there are two types: “soft” pellicles, made of transparent fluorocarbon-based polymers, and “hard” pellicles, made of quartz glass. The pellicles at issue are soft pellicles.

ISSUE:

Whether the pellicles are classified under heading 9002, HTSUS, as optical elements, or under heading 8486, HTSUS, as parts of machines of a kind used solely or principally for the manufacture of semiconductor devices.

LAW AND ANALYSIS:

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

The 2009 HTSUS provisions under consideration are as follows:

8486	Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays; machines and apparatus specified in Note 9 (C) to this chapter; parts and accessories:
8486.90.00	Parts and accessories ...

⁴ The pellicles at issue are not “pellicle mirrors,” devices that split a beam of light in two whereby one half is reflected and the other is transmitted.

9002 Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked; parts and accessories thereof:

9002.91 Other:

Other:

9002.90.96 Other ...

Legal Note 2 to Section XVI, HTSUS, provides, in relevant part:

Subject to note 1 to this section, note 1 to chapter 84 and note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

* * *

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 are to be classified in heading 8517[.]

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While not 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).

The ENs to heading 8486 provide, in part:

This heading covers machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays ...

* * *

(B) MACHINES AND APPARATUS FOR THE MANUFACTURE OF SEMICONDUCTOR DEVICES OR OF ELECTRONIC INTEGRATED CIRCUITS

This heading covers machines and apparatus for the manufacture of semiconductor devices or of electronic integrated circuits such as:

* * *

(5) **Lithography equipment**, which transfer the circuit designs to the photoresist-coated surface of the semiconductor wafer such as:

- (c) **Equipment for exposing the photoresist coated wafer with the circuit design** (or a part thereof):
 - (i) **Using a mask or reticle and exposing the photoresist to light** (generally ultraviolet) or, in some instances, X-rays:
 - (e) **Contact printers ...**
 - (f) **Proximity aligners ...**
 - (g) **Scanning aligners ...**
 - (h) **Step and repeat aligners**, which use projection techniques to expose the wafer a portion at a time. Exposure can be by reduction from the mask to the wafer or 1:1. Enhancements include the use of an excimer laser.

(E) PARTS AND ACCESSORIES

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), the heading includes parts and accessories for the machines and apparatus of this heading. Parts and accessories falling in this heading thus include, *inter alia*, work or tool holders and other special attachments which are solely or principally used for the machines and apparatus of this heading.

The ENs to heading 9002, HTSUS, provide, in part:

With the exception of ophthalmic lenses (which when mounted constitute spectacles, lorgnettes or the like of **heading 90.04**), this heading covers the articles referred to in Items (B), (C) and (D) of the Explanatory Note to heading 90.01 when in a permanent mounting (viz., fitted in a support or frame, etc.) suitable for fitting to an apparatus or instrument.

The ENs to heading 9001, HTSUS, provide, in part:

This heading covers:

(D) Optical elements of any material other than glass, whether or not optically worked, not permanently mounted ...

Optical elements are manufactured in such a way that they produce a required optical effect. An optical element does more than merely allow light (visible, ultraviolet or infrared) to pass through it, rather the passage of light must be altered in some way, for example, by being reflected, attenuated, filtered, diffracted, collimated, etc. (emphasis added).

Some of the optical elements listed above (lenses, prisms, etc.) may be colored, or coated with an anti reflection film of cryolite, calcium or magnesium fluoride, etc. This does not affect their classification in this heading.

Heading 9002, HTSUS, provides in part for “Optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus” CBP has held, consistent with EN 90.01 (incorporated by reference into EN 90.02), that an “optical element” is one that produces an optical effect. See, e.g., HQ 966475, dated October 23, 2003. That is, it must “[do] more than merely allow light (visible, ultraviolet or infrared) to pass through it, rather the passage of light must be altered in some way, for example, by being reflected, attenuated, filtered, diffracted, collimated, etc.” See EN 90.01. See also NY N049895, dated February 10, 2009. The pellicles at issue do not alter (e.g., reflect, attenuate, filter, diffract or collimate) the light that passes through them. To the contrary, they are intentionally designed to reduce their reflectivity and to optimize light transmission. As such, we conclude that they are not “optical elements” of heading 9002, HTSUS.

Heading 8486, HTSUS, provides, in relevant part, for: “Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays; ... parts and accessories.” It is undisputed that the subject pellicles are “parts” of a kind used solely with lithography equipment which transfer the circuit designs to the photo-resist coated surface of a semiconductor wafer. See *Bauerhin Technologies Limited Partnership, & John V. Carr & Son, Inc. v. United States*, 110 F.3d 774, 777 (Fed. Cir. 1997) (“[A]n imported item dedicated solely for use with another article is a “part” of that article within the meaning of the HTSUS”). Specifically, they are “parts” of step-and-repeat aligners. See EN 84.86 (B)(4)(b)(i)(d).

Note 2(b) to Section XVI, HTSUS, provides that “parts” that are suitable for use solely or principally with a particular kind of machine are classified with that machine. As such, we find that the pellicles are classified under heading 8486, specifically in subheading 8486.90, HTSUS, as “parts” of machines and apparatus of a kind used solely for the manufacture of integrated circuits.

HOLDING:

By application of GRI 1 and Note 2(b) to Section XVI, the subject pellicles are classified in heading 8486, HTSUS, specifically in subheading 8486.90.00, which provides for: “Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays; ... parts and accessories: Parts and accessories.” The 2009 column one, general rate of duty is Free.

EFFECT ON OTHER RULINGS:

NY G88540, dated April 12, 2001, is hereby revoked.

Sincerely,

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division