

# U.S. Customs and Border Protection



## ACCREDITATION AND APPROVAL OF SAYBOLT LP, AS A COMMERCIAL GAUGER AND LABORATORY

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

**ACTION:** Notice of accreditation and approval of Saybolt LP, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Saybolt LP, 1123 Highway 43, Saraland, AL 36571, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. [http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The accreditation and approval of Saybolt LP, as commercial gauger and laboratory became effective on April 06, 2010. The next triennial inspection date will be scheduled for April 2013.

**FOR FURTHER INFORMATION CONTACT:** Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: August 9, 2010

IRA S. REESE  
*Executive Director*  
*Laboratories and Scientific Services*

[Published in the Federal Register, August 19, 2010 (75 FR 51281)]

## APPROVAL OF AMERICAN CARGO ASSURANCE, AS A COMMERCIAL GAUGER

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

**ACTION:** Notice of approval of American Cargo Assurance, as a commercial gauger.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.13, American Cargo Assurance, 1512 South Houston Road, Houston, TX 77502, has been approved to gauge petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. [http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The approval of American Cargo Assurance, as commercial gauger became effective on May 28, 2010. The next triennial inspection date will be scheduled for May 2013.

**FOR FURTHER INFORMATION CONTACT:** Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: August 9, 2010

IRA S. REESE  
*Executive Director*  
*Laboratories and Scientific Services*

[Published in the Federal Register, August 19, 2010 (75 FR 51282)]



## APPROVAL OF AMERICAN CARGO ASSURANCE, AS A COMMERCIAL GAUGER

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

**ACTION:** Notice of approval of American Cargo Assurance, as a commercial gauger.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.13, American Cargo Assurance, 3417-A Maplewood, Sulphur, LA 70663, has been approved to gauge petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquires regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. [http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The approval of American Cargo Assurance, as commercial gauger became effective on May 18, 2010. The next triennial inspection date will be scheduled for May 2013.

**FOR FURTHER INFORMATION CONTACT:** Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: August 9, 2010

IRA S. REESE  
*Executive Director*  
*Laboratories and Scientific Services*

[Published in the Federal Register, August 19, 2010 (75 FR 51282)]



**ACCREDITATION AND APPROVAL OF INSPECTORATE  
AMERICA CORPORATION, AS A COMMERCIAL GAUGER  
AND LABORATORY**

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

**ACTION:** Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Inspectorate America Corporation, 1150-80 Syl-

van Street, Linden, NJ 07036, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. [http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on May 12, 2010. The next triennial inspection date will be scheduled for May 2013.

**FOR FURTHER INFORMATION CONTACT:** Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: August 9, 2010

IRA S. REESE  
*Executive Director*  
*Laboratories and Scientific Services*

[Published in the Federal Register, August 19, 2010 (75 FR 51281)]



### **ACCREDITATION AND APPROVAL OF INTERTEK USA, INC., AS A COMMERCIAL GAUGER AND LABORATORY**

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

**ACTION:** Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Intertek USA, Inc., 16025 B Jacintoport Blvd., Channelview, TX 77015, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344—1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. [http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on April 27, 2010. The next triennial inspection date will be scheduled for April 2013.

**FOR FURTHER INFORMATION CONTACT:** Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202—344—1060.

Dated: August 9, 2010

IRA S. REESE  
*Executive Director*  
*Laboratories and Scientific Services*

[Published in the Federal Register, August 19, 2010 (75 FR 51281)]



### **ACCREDITATION OF INTERTEK USA, INC., AS A COMMERCIAL LABORATORY**

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

**ACTION:** Notice of accreditation of Intertek USA, Inc., as a commercial laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12, Intertek USA, Inc., Carr 901, Km. 2.7 Bo. Camino Nuevo, Yabucoa, PR 00767, has been accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12. Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquires regard-

ing the specific test this entity is accredited to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. [http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The accreditation of Intertek USA, Inc., as commercial laboratory became effective on May 12, 2010. The next triennial inspection date will be scheduled for May 2013.

**FOR FURTHER INFORMATION CONTACT:** Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: August 9, 2010

IRA S. REESE  
*Executive Director*  
*Laboratories and Scientific Services*

[Published in the Federal Register, August 19, 2010 (75 FR 51282)]



### **APPROVAL OF LOS ANGELES BUNKER SURVEYORS, INC., AS A COMMERCIAL GAUGER**

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

**ACTION:** Notice of approval of Los Angeles Bunker Surveyors, Inc., as a commercial gauger.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.13, Los Angeles Bunker Surveyors, Inc., 214 N. Marine Ave., Wilmington, CA 90744, has been approved to gauge petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquires regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laborato-

ries. [http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The approval of Los Angeles Bunker Surveyors, Inc., as commercial gauger became effective on April 30, 2010. The next triennial inspection date will be scheduled for April 2013.

**FOR FURTHER INFORMATION CONTACT:** Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: August 9, 2010

IRA S. REESE  
*Executive Director*  
*Laboratories and Scientific Services*

[Published in the Federal Register, August 19, 2010 (75 FR 51283)]



## GENERAL NOTICE

### 19 C.F.R. PART 177

#### REVOCATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT CONCERNING THE CLASSIFICATION OF INSTRUMENTS USED IN THE COURSE OF MEASURING-WHILE -DRILLING FOR OIL

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

**ACTION:** Notice of revocation of two ruling letters and revocation of treatment relating to the tariff classification of certain instruments used in course of measuring-while-drilling for oil.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking two ruling letters relating to the tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS) of certain instruments used in the course of measuring-while-drilling. CBP is also revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Volume 44, No. 24, on June 9, 2010. No comments were received in response to the notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after November 8, 2010.

**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 is revoking two ruling letters relating to the tariff classification of certain instruments used in the course of measuring-while-drilling for oil. Although in this notice CBP is specifically referring to the revocation of Headquarters Ruling Letter (HQ) 966618, dated January 16, 2004, and HQ 950196, dated January 8, 1992, 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 ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during this notice period.



In HQ 966618 and HQ 950196, CBP classified the merchandise in heading 8543, HTSUS, and 9031, HTSUS, respectively. Upon review, we now believe that both instruments are correctly classified in heading 9015 (9015.80.80), HTSUS, as “Geophysical instruments: Other instruments and appliances: Other: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking HQ 966618, HQ 950196, and any other ruling not specifically identified to reflect the correct classification of the instruments used in the course of measuring-while-drilling for oil, pursuant to the analysis set forth in proposed HQ H024750 (Attachment A) and H024751 (Attachment B). CBP is also revoking any treatment previously accorded by it to substantially identical transactions.

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

Dated: August 25, 2010

KELLY HERMAN

*for*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

## [ATTACHMENT A]

HQ H024750

August 24, 2010

CLA-2 OT:RR:CTF:TCM H024750 RM

CATEGORY: Classification

TARIFF NO.: 9015.80.80

SCOTT L. JOHNSON, ESQ.  
 GIVENS & JOHNSON, PLLC  
 950 ECHO LANE, SUITE 360  
 HOUSTON, TX 77024-2788

RE: Revocation of HQ 966618; Classification of the “OnTrak System”

DEAR MR. JOHNSON:

This is in reference to Headquarters Ruling Letter (“HQ”) 966618, dated January 16, 2004, issued to you on behalf of Baker Hughes INTEQ. In that ruling, U.S. Customs and Border Protection (“CBP”) determined that the OnTrak System (“OnTrak”) was classified under heading 8543 the Harmonized Tariff Schedule of the United States (“HTSUS”), which provides in part for: “Electrical machines and apparatus, having individual functions, not specified or included elsewhere in [Chapter 85].” We have reviewed the ruling and found this classification to be incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published in the *Customs Bulletin*, Volume 44, No. 24, on June 9, 2010. No comments were received in response to this notice.

**FACTS:**

The OnTrak is a tool used in the course of measuring-while-drilling for oil (also known as “directional drilling”)<sup>1</sup> to monitor, in real time, the inclination, resistivity, annular pressure, stick-slip vibration, and azimuth (the compass direction) of the borehole (the rock face that bounds a drilled hole).<sup>2</sup> The data gathered by the OnTrak enables the drilling operator to change the trajectory of the well if desired.

The OnTrak, pictured below, is comprised of two main subassemblies: (1) the Sensor Sub, which gathers geological formation data during the drilling operation — including an image of the borehole, and (2) the Bi-directional Communication and Power Module (“BCPM”), which communicates the data gathered by the Sensor Sub to the surface operator via mud-pulse telemetry

<sup>1</sup> Measuring-while-drilling (“MWD”) is a type of well logging that incorporates the measurement tools into the drill stem and provides real-time information to help with steering the drill. Generally, an MWD system (1) uses gyroscopes, magnetometers, and accelerometers to determine the inclination, azimuth (the compass direction), and temperature of the borehole, (2) transmits the data to the surface via mud pulse signals (i.e., pulses through the mud column) and electromagnetic telemetry, and (3) decodes those signals for use by the rig floor technicians. See *Schlumberger’s Oilfield Glossary*, available at <http://www.glossary.oilfield.slb.com>. See also “How Does Measuring-While-Drilling Work?” available at <http://www.rigzone.com/training>.

<sup>2</sup> The OnTrak is one of the several tools used in measuring-while-drilling to gather data about the geologic formation during the drilling operation.

(i.e., increasing or decreasing pressure pulses which are transmitted through the mud). The BCPM also provides the electrical energy required to power the OnTrak. The complete unit is installed into the drilling machine’s collar and is attached to a steering unit (not at issue in this ruling) that is connected to the drill bit.<sup>3</sup>

INSERT GRAPHIC ONTRACK.TIF

**ISSUE:**

Is the OnTrak classified under heading 9015, HTSUS, as a geophysical instrument, or under heading 8543, HTSUS, as an electrical machine, having individual functions, not specified or included elsewhere in Chapter 85, HTSUS?

**LAW AND ANALYSIS:**

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

The 2010 HTSUS headings under consideration are the following:

- 8543 Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof:
- 8543.70 Other machines and apparatus:
  - Other:
  - Other:
- 8543.70.96 Other:
  - \* \* \*
- 9015 Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof:
- 9015.80 Other instruments and appliances:
  - Other:
- 9015.80.80 Other ...
  - \* \* \*

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<sup>3</sup> It is most commonly paired with INTEQ’s AutoTrak Rotary Closed Loop System, an automated directional drilling system that contains its own programmed controller and steering sub, and drills continuously in the rotary mode.

Note 4 to Section XVI (which includes Chapter 85, HTSUS) provides:

Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables, or by other devices) intended to contribute together to perform a clearly defined function covered by one of the headings in chapter 84 or chapter 85, then the whole falls to be classified in the heading appropriate to that function.

Note 3 to Section XVII (which includes Chapter 90, HTSUS) provides that “[t]he provisions of notes 3 and 4 to Section XVI apply also to this chapter.”

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).

EN 85.43 provides, in relevant part:

This heading covers all electrical appliances and apparatus, **not falling** in any other heading of this Chapter, **nor covered more specifically** by heading of any other Chapter of the Nomenclature, nor excluded by operation of a Legal Note to Section XVI or to this Chapter. The principal electrical goods covered more specifically by other Chapters are electrical machinery of **Chapter 84** and certain instruments and apparatus of **Chapter 90**.

EN 90.15 provides, in relevant part:

(VI) **GEOPHYSICAL INSTRUMENTS**

The following remain in this heading:

...

(2) **Magnetic or gravimetric geophysical instruments used in prospecting for ores, oil, etc.** These highly sensitive instruments include magnetic balances, magnetometers, magnetic theodolites and gravimeters, torsion balances.

...

(5) **Apparatus for measuring the inclination of a borehole.**

Note 3 to Section XVII (which incorporates Note 4 to Section XVI into Chapter 90, HTSUS) directs that, when a combination of machines contribute together to perform a clearly defined function covered by one of the headings in Chapter 90, HTSUS, they are to be classified in the heading appropriate to that function.

Heading 9015, HTSUS, provides in part for “Geophysical instruments.” The term “geophysical” is not defined in the HTSUS. When a tariff term is not defined by the HTSUS or its legislative history, “the term’s correct meaning is its common meaning.” See *Mita Copystar Am. v. United States*, 21 F.3d

1079, 1082 (*Fed. Cir. 1994*). The common meaning of a term used in commerce is presumed to be the same as its commercial meaning. *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (*Fed. Cir. 1989*). To ascertain the common meaning of a term, a court may consult “dictionaries, scientific authorities, and other reliable information sources” and “lexicographic and other materials.” *C.J. Tower & Sons v. United States*, 673 F.2d 1268, 1271 (*CCPA 1982*) ; *Simod*, 872 F.2d at 1576.

*Schlumberger’s Oilfield Glossary* defines the term “geophysics” as “[t]he study of the physics of the earth, especially its electrical, gravitational and magnetic fields and propagation of elastic (seismic) waves within it.”<sup>4</sup> The OnTrak is a machine comprised of two subassemblies which work together to gather down-hole data (e.g., the inclination, resistivity, pressure and azimuth of the drilled borehole) and transmit it to the surface for purposes of oil and gas exploration. Insofar as this function is “geophysical,” we conclude that the machine is classified as a functional unit of heading 9015, HTSUS.

Our conclusion is in keeping with EN 90.15(VI) which indicates that “apparatus for measuring the inclination of a borehole” and “magnetic geophysical instruments used in prospecting for oil” are classified under heading 9015, HTSUS, as geophysical instruments. See EN 90.15 (VI)(2),(5). See also HQ W968458, dated May 8, 2009 (sonic imaging tool used to examine the condition of subsurface geological formations for purposes of oil exploration classified under heading 9015, HTSUS, as a geophysical instrument). As the OnTrak is covered more specifically in heading 9015, HTSUS, than in heading 8543, HTSUS, it is precluded from classification under heading 8543, HTSUS. See EN 85.43.

#### **HOLDING:**

By application of GRI 1 (Note 3 to Section XVII, HTSUS), the OnTrak is classified under heading 9015, HTSUS, specifically in subheading 9015.80.80 which provides for: “Geophysical instruments: Other instruments and appliances: Other: Other.” The 2010 column one, general rate of duty is Free.

Duty rates are provided for convenience only and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at [www.usitc.gov](http://www.usitc.gov).

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

This ruling revokes HQ 966618, dated January 16, 2004. In accordance with 19 U.S.C. § 1625(c), this action will become effective 60 days after publication in the *Customs Bulletin*.

*Sincerely,*

KELLY HERMAN

*for*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

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<sup>4</sup> See *Schlumberger’s Oilfield Glossary*, available at <http://glossary.oilfield.slb.com>.

## [ATTACHMENT B]

HQ H024751

August 24, 2010

CLA-2 OT:RR:CTF:TCM H024751 RM

CATEGORY: Classification

TARIFF NO.: 9015.80.80

MR. CHUCK J. THOMPSON  
 XL BROKERS INTERNATIONAL, INC.  
 P.O. Box 60132, AMF  
 HOUSTON, TX 77205

RE: Revocation of HQ 950196; Classification of the “Geolink Orienteer Directional Measurement-While-Drilling Surveying System”

DEAR MR. THOMPSON:

This is in reference to Headquarters Ruling Letter (“HQ”) 950196, dated January 8, 1992, issued to you on behalf of the Ensco Technology Corporation, concerning the tariff classification of the “Geolink Orienteer Directional Measurement-While-Drilling Surveying System” (hereinafter “Geolink Orienteer” or “Geolink”). In that ruling, U.S. Customs and Border Protection (“CBP”) determined that the Geolink Orienteer was classified under heading 9031 of the Harmonized Tariff Schedule of the United States (“HTSUS”), which provides in part for “Measuring or checking instruments ... not specified or included elsewhere in [Chapter 90].” We have reviewed the ruling and found this classification to be incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published in the *Customs Bulletin*, Volume 44, No. 24, on June 9, 2010. No comments were received in response to this notice.

**FACTS:**

The Geolink Orienteer is a multi-part surveying system used in the course of measuring-while-drilling for oil (also known as “directional drilling”) to monitor, in real time, the inclination, temperature, and azimuth (the compass direction) of the borehole (the rock face that bounds a drilled hole).<sup>1</sup> In HQ 950196, we described the merchandise as follows:

[The GEOLINK] is composed of a “downhole system” component that is attached to the drill, and a “surface system” component that receives and interprets the data from the drill.

<sup>1</sup> Measuring-while-drilling (“MWD”) is a type of well logging that incorporates the measurement tools into the drill stem and provides real-time information to help with steering the drill. Generally, an MWD system (1) uses gyroscopes, magnetometers, and accelerometers to determine the inclination, azimuth (the compass direction), and temperature of the borehole, (2) transmits the data to the surface via mud pulse signals (i.e., pulses through the mud column) and electromagnetic telemetry, and (3) decodes those signals for use by the rig floor technicians. See *Schulmberger’s Oilfield Glossary*, available at <http://www.glossary.oilfield.slb.com>. See also “How Does Measuring-While-Drilling Work?” available at <http://www.rigzone.com/training>.

The downhole system (which is contained in the Transmitter Sub), consists of the following components: the Power Section Assembly; the Survey Electronics Assembly; the Actuator Power Controller Assembly; and the Transmitter Assembly. The Transmitter Sub is a specially machined, non-magnetic drill collar section for housing the mud pulse transmitter. The Power Section Assembly supplies the power to the Transmitter Assembly and the Survey Electronics Assembly. The Survey Electronics Assembly collects the mud pulse data. This assembly includes triaxial magnetometers, inclinometers and control electronics. These instruments indicate the inclination, temperature, tool face, and azimuth of the drill. The Actuator Power Controller Assembly carries the power from the Power Section Assembly to the Transmitter Assembly. The Transmitter Assembly collects the data from the Survey Electronics Assembly and converts it into a mud pulse signal that is sent to the Standpipe Pressure Transmitter on the surface.

The surface system consists of the following components: the Standpipe Pressure Transmitter; the Pump Synchronization Sensors; a Systems Interface Box; a Control Terminal; a Laptop PC; a Strip Chart Recorder; a Printer; and a Rig Floor Display. The Standpipe Pressure Transmitter receives the mud pulse signal from the Transmitter Assembly and sends the signal to the Systems Interface Box. The Pump Synchronization Sensors synchronize the mud pumps with the Systems Interface Box to enhance pulse detection. The Systems Interface Box supplies power to the entire surface system, except the computer. It acts as the interface for the transmission of data between the various surface system components, except the printer. It converts raw signals into digital signals that are then sent to the computer. The Control Terminal is a hand-held interface that acts as a direct control device to the Systems Interface Box. The Laptop PC is a computer that analyzes the data from the drill. It is used for storage of data, printout, directional survey calculation, and other applications programs. The Strip Chart Recorder prints the data from the Systems Interface Box. The Printer produces hard copy output of data from the drill and other programs. The Rig Floor Display is a unit on the drill rig platform that displays the directional data of the drill. The data is sent from the computer through the Systems Interface Box.

You stated that the surface equipment does not and cannot control the downhole equipment — it can only be used to interpret the data sent to the surface from the downhole equipment. To change the drill's direction, the downhole equipment must be taken out of the ground.

#### **ISSUE:**

Is the Geolink Orienteer classified under heading 9015, HTSUS, as a geophysical instrument, or under heading 9031, HTSUS, as a measuring or checking instrument not specified or included elsewhere in Chapter 90?

#### **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 2010 HTSUS headings under consideration are the following:

- 9015            Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof:
- 9015.80            Other instruments and appliances:
- 9015.80.80            Other ...
  - \*                    \*                    \*
- 9031            Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this chapter; profile projectors; parts and accessories thereof:
- 9031.80            Other instruments, appliances and machines:
  - Other:
  - 9031.80.80            Other ...
    - \*                    \*                    \*

Note 4 to Section XVI (which includes Chapter 85, HTSUS) provides:

Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables, or by other devices) intended to contribute together to perform a clearly defined function covered by one of the headings in chapter 84 or chapter 85, then the whole falls to be classified in the heading appropriate to that function.

Note 3 to Section XVII (which includes Chapter 90, HTSUS) provides that “[t]he provisions of notes 3 and 4 to section XVI apply also to this chapter.”

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).

EN 90.15 provides, in relevant part:

**(VI) GEOPHYSICAL INSTRUMENTS**

The following remain in this heading:

- ...
- (2) Magnetic or gravimetric geophysical instruments used in prospecting for ores, oil, etc.** These highly



sensitive instruments include magnetic balances, magnetometers, magnetic theodolites and gravimeters, torsion balances.

...

**(5) Apparatus for measuring the inclination of a borehole.**

EN 90.31 provides, in relevant part:

This heading covers **measuring or checking instruments, appliances and machines, whether or not optical**. It should, however, be noted that this group **does not include** any instruments ... falling in headings ... 90.15.

Note 3 to Section XVII (which incorporates Note 4 to Section XVI into Chapter 90, HTSUS) directs that, when a combination of machines contribute together to perform a clearly defined function covered by one of the headings in Chapter 90, HTSUS, they are to be classified in the heading appropriate to that function.

Heading 9015, HTSUS, provides in part for “Geophysical instruments.” The term “geophysical” is not defined in the HTSUS. When a tariff term is not defined by the HTSUS or its legislative history, “the term’s correct meaning is its common meaning.” See *Mita Copystar Am. v. United States*, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term used in commerce is presumed to be the same as its commercial meaning. *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed. Cir. 1989). To ascertain the common meaning of a term, a court may consult “dictionaries, scientific authorities, and other reliable information sources” and “lexicographic and other materials.” *C.J. Tower & Sons v. United States*, 673 F.2d 1268, 1271 (CCPA 1982) ; *Simod*, 872 F.2d at 1576.

*Schlumberger’s Oilfield Glossary* defines the term “geophysics” as “[t]he study of the physics of the earth, especially its electrical, gravitational and magnetic fields and propagation of elastic (seismic) waves within it.”<sup>2</sup> The Geolink Orienteer is a system comprised of several interconnected machines which work together to transmit down-hole data to the surface (e.g., the inclination, temperature and azimuth of the drilled borehole), and to decode that information so that it can be used by rig technicians in course of oil and gas exploration. Insofar as this function is “geophysical,” we conclude that the entire system is classified together, as a functional unit of heading 9015, HTSUS.

Our conclusion is in keeping with EN 90.15(VI) which indicates that “apparatus for measuring the inclination of a borehole” and “magnetic geophysical instruments used in prospecting for oil” are classified under heading 9015, HTSUS, as geophysical instruments. See EN 90.15 (VI)(2),(5). See also HQ W968458, dated May 8, 2009 (sonic imaging tool used to examine the condition of subsurface geological formations for purposes of oil exploration classified under heading 9015, HTSUS, as a geophysical instrument). As the

<sup>2</sup> See *Schlumberger’s Oilfield Glossary*, available at <http://glossary.oilfield.slb.com>.

Geolink Orienteer is classified under heading 9015, HTSUS, it is precluded from classification under heading 9031, HTSUS, by the terms of that heading. *See also* EN 90.31.

**HOLDING:**

By application of GRI 1 (Note 3 to Section XVII, HTSUS), the Geolink Orienteer is classified under heading 9015, HTSUS, specifically in subheading 9015.80.80 which provides for: "Geophysical instruments: Other instruments and appliances: Other: Other." The 2010 column one, general rate of duty is Free.

Duty rates are provided for convenience only and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at *www.usitc.gov*.

**EFFECT ON OTHER RULINGS:**

This ruling revokes HQ 950196, dated January 8, 1992. In accordance with 19 U.S.C. § 1625(c), this action will become effective 60 days after publication in the *Customs Bulletin*.

*Sincerely,*

KELLY HERMAN

*for*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*