U.S. Customs and Border Protection

19 CFR PART 177

REVOCATION OF THREE RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE APPLICABILITY OF THE GENERALIZED SYSTEM OF PREFERENCES (GSP) TO INCANDESCENT STRING LIGHTS

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

ACTION: Notice of revocation of three ruling letters, and of revocation of treatment relating to the applicability of Generalized System of Preferences (GSP) to incandescent string lights.

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 three ruling letters concerning applicability of GSP to certain incandescent string lights. Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 58, No. 37, on September 18, 2024. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after April 19, 2025.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade, at (202) 325–0132.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obli-

gation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public 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 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 58, No. 37, on September 18, 2024, proposing to revoke three ruling letters pertaining to the applicability of GSP to certain incandescent string lights. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the comment 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 this notice.

In Headquarters Ruling Letter ("HQ") H303773, dated June 13, 2019, HQ H303816, dated June 14, 2019, and New York Ruling Letter ("NY") N299944, dated August 24, 2018, CBP found that the Chinese origin bulbs were not substantially transformed in either Cambodia (HQ H303773 and NY N299944) or the Philippines (HQ H303773), and thus ineligible for duty-free treatment under the GSP. Upon further review of the matter, it is now CBP's position that the Chinese origin light bulbs at issue in these rulings are substantially transformed by processing performed in Cambodia or the Philippines. Accordingly, the country of origin of the string light sets in these rulings is Cambodia or the Philippines, and they may be eligible for preferential tariff treatment under the GSP, if they are directly exported from Cambodia or the Philippines to the United States, provided the 35 percent value content requirement is satisfied.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking HQ H303773, HQ H303816, and NY N299944 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in

HQ H304419, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

YULIYA A. GULIS,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H304419
December 11, 2024
OT:RR:CTF:VS H304419 RSD
CATEGORY: CLASSIFICATION

JOHN P. FONDER, ESQ.
CHRISTENSEN, FONDER & DARDI
33 SOUTH SIXTH STREET, SUITE 4540
MINNEAPOLIS, MN 55402

RE: Revocation of HQ H303773, HQ H303816, and NY N299944; Incandescent string lights; Generalized System of Preferences (GSP)

DEAR MR. FONDER:

This is in response to your letters, dated June 26, 2019, and November 12, 2019, on behalf of the Willis Electric Co. Ltd. (Willis) of Taiwan, requesting reconsideration of Headquarters Ruling Letter (HQ) H303773, dated June 13, 2019, with respect to U.S. Customs and Border Protection's (CBP) determination of whether incandescent string lights imported directly from Cambodia qualified for preferential duty treatment under the Generalized System of Preferences (GSP). A meeting was held on October 29, 2019, with you, a co-counsel, an executive from Willis, and members of my staff to discuss your request for reconsideration. We have also received a number of samples of three different types of string lights and other alternative products that use lights bulbs that are similar to the light bulbs used in the string lights. This letter also concerns the following rulings:

In HQ H303816, dated June 14, 2019, the string light sets at issue were found not to be products of the Philippines because the bulbs of the light sets were not substantially transformed in the Philippines and retained their origin. Furthermore, in NY N299944, dated August 24, 2018, CBP determined that light sets assembled in Cambodia using Chinese and U.S. components, including lamp husks/bases made from imported polypropylene pellets, did not result in a substantial transformation.

We have reconsidered these rulings and now believe that they are incorrect. For the reasons that follow, we hereby revoke HQ H303773, HQ H303816, and NY N299944.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice proposing to revoke HQ H30773, HQ H303816, and NY N299944 was published on September 18, 2024, in Volume 58, No. 37 of the Customs Bulletin. No comments were received in response to the proposed action.

FACTS:

In your reconsideration request, you state that the facts set forth in HQ H303773 are basically correct with one omission. HQ H303773 concerned five items: (1) 150-count Incandescent Steady-on Miniature Christmas Net Lights – Clear (#779320); (2) 150-count Incandescent Steady-on Miniature Christmas Net Lights – Multicolor (#779319); (3) 300-count Incandescent Steady-on Miniature Christmas Icicle Light String – Clear (#3752); (4) 25-count Incandescent Steady-on C9 Christmas Light String – Clear (#99506); and, (5) 25-count Incandescent Steady-on C9 Christmas Light String – Ceramic Multicolor (#99505). The production process for all of the string lights is substan-

tially similar and incorporates components from Cambodia and China. After assembly, Underwriters Laboratories (UL) labels from the United States are attached to each string light.

The production process for the various string lights begins in Cambodia with inserting Chinese-origin polypropylene pellets into an injection molding machine to produce lamp bases, lamp holders, and wire clips by melting the polypropylene and forming the components. After the lamp base and lamp holder components are produced, Chinese-origin bulbs are inserted into them. The insulated copper wire, which is obtained from both China (20%) and Cambodia (80%), is cut to length, peeled as necessary, and brass terminals, imported from China on spools, are attached at the ends of the wire. The light bulbs in lamp bases and lamp holders are assembled with the processed insulated wire to create incomplete string lights. Insulated copper wire is cut, peeled as necessary, and brass terminals are attached to the ends to create plug wires. Plugs, which are obtained from both China (40%) and Cambodia (60%), are attached to the plug wires. The wires undergo twisting. The plug wires are connected to incomplete string lights. The wires are combined to form the icicle light string or linked with wire clips and PVC wire (which is sourced from China (20%) and Cambodia (80%)) to form net strings. The completed string lights are tested, inspected, labeled with UL labels and caution labels, and packaged in Cambodian-origin packaging materials with a Cambodian produced instruction manual and a packet of replacement parts (spare fuse, spare bulbs, plastic bag) imported from China.

The C9 string lights differ slightly in their production. After the lamp bases and lamp holders are produced in Cambodia, the insulated copper wire undergoes wire cutting, peeling and connection to the plug. The lamp holder contains the terminal, which is assembled inside the lamp holder and then connected to the insulated copper wire. The C9 bulbs are screwed into the lamp holders on the string light. The string light is packaged using a plastic bulb holder (produced in Cambodia). The string light is tested, labeled and packaged.

You claim that the facts as stated in HQ H303773 fail to sufficiently indicate the production processes that occur in one country, Cambodia.

HQ H303816 and NY N299944 discussed similar assembly processes, including making lamp husks/lamp bases from polypropylene pellets.

ISSUE:

Whether the incandescent string lights are eligible for duty-free treatment under the GSP.

LAW AND ANALYSIS:

Under the GSP, eligible articles grown, produced, or manufactured in a designated beneficiary developing country (BDC), which are imported directly into the customs territory of the United States from a BDC, may receive duty-free treatment if the sum of (1) the cost or value of materials produced in the BDC, plus (2) the direct costs of the processing operations performed in the BDC, is equivalent to at least 35 percent of the appraised value of the article at the time of entry into the United States. *See* 19 U.S.C. § 2463(a)(2)(A).

As stated in General Note 4, Harmonized Tariff Schedule of the United States (HTSUS), Cambodia is a designated BDC. In addition, at the time HQ H303773 was issued, items 1, 2, and 3 were classifiable under subheading

9405.40.84, HTSUS. Items 4 and 5 were classifiable under subheading 9405.30.00, HTSUS. We note that the classification of these articles has changed, but the new subheadings still remain eligible for GSP, although at this time, Congress has not renewed the GSP. Nonetheless, for purposes of discussing the other requirements of the GSP, articles classified under these subheadings are eligible for duty-free treatment under the GSP provided that they are a "product of" Cambodia, are "imported directly" and satisfy the 35 percent value-content requirement.

The cost or value of materials which are imported into the BDC to be used in the production of the article, as in this case, may be included in the 35 percent value-content computation only if the imported materials undergo a double substantial transformation in the BDC. That is, the non-Cambodian components must be substantially transformed in Cambodia into a new and different intermediate article of commerce, which is then used in Cambodia in the production of the final imported article – the incandescent string lights. *See* Section 10.177(a), CBP Regulations (19 CFR 10.177(a)), and *Azteca Milling Co. v. United States*, 703 F. Supp. 949 (CIT 1988), *aff'd*, 890 F.2d 1150 (Fed. Cir. 1989).

The test for determining whether a substantial transformation has occurred is whether an article emerges from a process with a new name, character or use, different from that possessed by the article prior to processing. *See Texas Instruments Inc. v. United States*, 69 CCPA 152, 681 F.2d 778 (1982). In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

In *Energizer Battery, Inc. v. United States*, 190 F. Supp. 3d 1308 (2016), the Court of International Trade (CIT) interpreted the meaning of the term "substantial transformation" as used in the Trade Agreements Act of 1979 (TAA) for purposes of government procurement. *Energizer* involved the determination of the country of origin of a flashlight, referred to as the Generation II flashlight, under the TAA. All the components of the Generation II flashlight were of Chinese origin, except for a white LED and a hydrogen getter. The components were imported into the United States where they were assembled into the finished Generation II flashlight.

The court reviewed the "name, character and use" test in determining whether a substantial transformation had occurred and reviewed various court decisions involving substantial transformation determinations. The court noted, citing, *Uniroyal, Inc. v. United States*, 3 CIT 220, 542 F. Supp. 1026 (1982), *aff'd*, 702 F.2d 1022 (Fed. Cir. 1983) (imported shoe uppers added to an outer sole in the United States were the "very essence of the finished shoe" and the character of the product remained unchanged and did not undergo substantial transformation in the United States) that when "the

post-importation processing consists of assembly, courts have been reluctant to find a change in character, particularly when the imported articles do not undergo a physical change." *Energizer* at 1318. In addition, the court noted that "when the end-use was pre-determined at the time of importation, courts have generally not found a change in use." *Energizer* at 1319, citing as an example, *National Hand Tool Corp. v. United States,* 16 C.I.T. 308 (1992), *aff'd*, 989 F.2d 1201 (Fed. Cir. 1993). Furthermore, courts have considered the nature of the assembly, i.e., whether it is a simple assembly or more complex, such that individual parts lose their separate identities and become integral parts of a new article.

In reaching its decision in the *Energizer* case, the court expressed the question as one of whether the imported components retained their names after they were assembled into the finished Generation II flashlights. The court found "[t]he constitutive components of the Generation II flashlight do not lose their individual names as a result [of] the post-importation assembly." The court also found that the components had a pre-determined end-use as parts and components of a Generation II flashlight at the time of importation and did not undergo a change in use due to the post-importation assembly process. Finally, the court did not find the assembly process to be sufficiently complex as to constitute a substantial transformation. Thus, the court found that Energizer's imported components did not undergo a change in name, character, or use because of the post-importation assembly of the components into a finished Generation II flashlight. The court determined that China, the source of all but two components, was the correct country of origin of the finished Generation II flashlights under the government procurement provisions of the TAA.

In HQ H303773, CBP pointed out that the glass tubes made into bulbs in China retained their Chinese origin based on HQ 557796, dated June 3, 1994, which determined that the Chinese assembly of bulbs made in Macau did not result in a substantial transformation. Upon further consideration, we believe HQ 557796 can be distinguished from the facts in this case because in HQ 557796, none of the components assembled in China were made there, and only assembly processes took place. This is similar to the findings in HQ H304093, dated June 13, 2019, where all of the major components were imported and assembled in the Philippines, including pre-made Chinese lamp husks/holders, and no substantial transformation occurred in the Philippines. *See also* NY N300781, dated September 28, 2018; and HQ 734182, dated February 17, 1993 (Taiwanese components assembled in China into light strings was not a substantial transformation).

However, where the lamp husks/holders are made in the country where the string lights are assembled, a substantial transformation has been found. In NY N301616, dated December 4, 2018, Chinese plastic granules were made into lamp holders/lamp husks in Cambodia, the Chinese incandescent light bulbs were connected to the lamp holders/lamp husks, wires were cut to length, and the lamp socket, plug and connector were assembled, and all components (lamp, lamp husks, wires, copper contacts/terminals) were assembled to make a finished light string. In that decision, CBP found that the assembly in Cambodia of the individual components to produce the finished string light sets created a new and different article of commerce with a distinct character and use that was not inherent in the components imported into Cambodia and the light string was considered a product of Cambodia. On the other hand, NY N299944 considered similar facts where the lamp husks/

holders were made in Cambodia and the assembly of the string lights also occurred there, but no substantial transformation into a product of Cambodia was found.

After reviewing the samples of the string lights, we are of the view that while the light bulbs are a significant component of the string lights, important work is performed in forming the lamp bases and sockets, by using polypropylene pellets and injection molding them in the beneficiary country. Therefore, more processes beyond those in *Energizer* are performed, such that the string lights may be considered a "product of" Cambodia. This decision follows those determinations made in HQ H304093, NY N300781, and HQ 734182.

Therefore, we find that the country of origin of the finished string lights is Cambodia, and the string light sets may be eligible for preferential tariff treatment under the GSP, provided the 35 percent value content requirement is satisfied. We note, however, that the bulbs may not be counted towards the 35 percent value content requirement, as they will not undergo a double substantial transformation in Cambodia.

HOLDING:

Based on information available, we find that the country of origin of the string light sets is Cambodia. Therefore, the string light sets directly exported from Cambodia to the United States may be eligible for the preferential tariff treatment under the GSP, provided the 35 percent value content requirement is satisfied.

EFFECT ON OTHER RULINGS:

HQ H303733, HQ H303816, and NY N299944 are hereby revoked.

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

Sincerely,

YULIYA A. GULIS,
Director
Commercial and Trade Facilitation Division

19 CFR PART 177

REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF INFRARED VIDEO GOGGLES FROM CHINA

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

ACTION: Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of infrared video goggles.

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 one ruling letter concerning tariff classification of infrared video goggles under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 58, No. 43, on October 30, 2024. One comment was received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after April 19, 2025.

FOR FURTHER INFORMATION CONTACT: Michael Thompson, Electronics, Machinery, Automotive, and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–1917.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public 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 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 58, No. 43, on October 30, 2024, proposing to revoke one ruling letter pertaining to the tariff classification of infrared video goggles. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the comment 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 this notice.

In New York Ruling Letter ("NY") N308716, dated January 28, 2020, CBP classified infrared video goggles in heading 9018, HTSUS, specifically in subheading 9018.90.20, HTSUS, which provides for "Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electromedical apparatus and sight-testing instruments; parts and accessories thereof: Other instruments and appliances and parts and accessories thereof: Optical instruments and appliances and parts and accessories thereof: Other." CBP has reviewed NY N308716 and has determined the ruling letter to be in error. It is now CBP's position that infrared video goggles are properly classified, in heading 9018, HTSUS, specifically in subheading 9018.19.95, HTSUS, which provides for "Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments; parts and accessories thereof: Electro-diagnostic apparatus (including apparatus for functional exploratory examination or for checking physiological parameters); parts and accessories thereof: Other: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking N308716 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H334777, set forth as an attachment to this notice. Additionally,

pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

YULIYA A. GULIS,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H334777
January 2, 2025
OT:RR:CTF:EMAIN H334777 MFT
CATEGORY: Classification
TARIFF NO.: 9018.19.95

MS. JOSIE MARIA GONZALEZ
DSV AIR & SEA, INC.
21112 72ND AVENUE SOUTH
KENT, WA 98032

Re: Revocation of NY N308716; Classification of Insight Infrared Video Goggles from China

DEAR MS. GONZALEZ:

This letter pertains to New York Ruling Letter (NY) N308716, issued to you on behalf of Vestibular First, LLC, on January 28, 2020. That decision was in response to Vestibular First's request for a ruling on the tariff classification of certain infrared video goggles from China. After review, we find NY N308716 to be in error and are revoking it for the reasons set forth below.

Notice of the proposed action was published on October 30, 2024, in the *Customs Bulletin*, pursuant to Section 625(c)(1) of the Tariff Act of 1930 (codified in 19 U.S.C § 1625(c)(1)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. No. 103–182, 107 Stat. 2057, 2186 (1993)). One comment was received in response to this notice.

FACTS:

NY N308716 describes the subject merchandise as follows:

> The Insight Infrared Video Goggles resemble a [v]irtual [r]eality headset worn by the patient. [The goggles] consist[] of a plastic enclosure (body), which goes around the eyes to block out all light, attached with a front panel (cover) and a silicone strap with two strap adapters and two adjusters. The front panel contains two cameras, two switches, a cable assembly, and other components. Each camera has two infrared LEDs and one visible light LED embedded on the chip and can detect both visible and infrared light, which it then captures on the sensor. The visible light LED is only turned on when the switch is enabled on the front of the goggles.
>
> The goggles do not have their own power source or software[] and rely on the connected computer to provide these.
>
> Once the device is connected to an off-the-shelf video viewing software applied with a specific template on a desktop or laptop, [a] clinician can use the infrared cameras to view the eye movements of the patient. The images can be recorded, displayed, and stored on the software. The videos are used by a trained medical professional, such as audiologists, ENT doctors, physicians, etc., to assist in diagnosing vestibular disorders.[1]

[1] NY N308716 (Jan. 28, 2020), https://rulings.cbp.gov/ruling/N308716.

After reviewing the case file for NY N308716, we further note that you explained to U.S. Customs and Border Protection (CBP) the following on January 14, 2020, in a written response to CBP's inquiries regarding the subject merchandise:

> The device [i.e., the infrared video goggles] utilizes infrared and visible light independently to help provide differential diagnosis to a trained clinician. Some abnormal eye movements only occur when there is no visible light present[, and] some abnormal eye movements are suppressed with visible light. The switch on the front of the goggles is controlled by the clinician during their exam to help determine how the eye movements are affected in different lighting scenarios.

NY N308716 classified the subject merchandise under subheading 9018.90.20 of the Harmonized Tariff Schedule of the United States (HTSUS), which provides for, "Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments; parts and accessories thereof: Other instruments and appliances and parts and accessories thereof: Optical instruments and appliances and parts and accessories thereof: Other."

NY N308716 further held that the subject merchandise was subject to the additional 25 percent ad valorem rate of duty under subheading 9903.88.01, HTSUS, applicable to products of China and described in statistical reporting number 9018.90.2000, HTSUS Annotated (HTSUSA).

ISSUES:

Whether the subject infrared video goggles are properly classified as "television cameras" under heading 8525, HTSUS, or as "instruments used in medical sciences" under heading 9018, HTSUS.

Whether the subject infrared video goggles are properly classified under subheading 9018.19, HTSUS, as "other electro-diagnostic apparatus" or under subheading 9018.90, HTSUS, as "other instruments and appliances."

LAW AND ANALYSIS:

Classification under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods will 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 will then be applied in order. GRI 6 provides that for legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, mutatis mutandis, to GRIs 1 through 5, on the understanding that only subheadings at the same level are comparable. For the purposes of GRI 6, the relative section and chapter notes also apply, unless the context otherwise requires.

The 2024 HTSUS headings and subheadings under consideration are as follows:

8525	Transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders:
	* * * * *
9018	Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments; parts and accessories thereof:
	Electro-diagnostic apparatus (including apparatus for functional exploratory examination or for checking physiological parameters); parts and accessories thereof:
9018.19	Other:
	* * * * *
9018.90	Other instruments and appliances and parts and accessories thereof.

The first issue we must address is whether the subject merchandise is properly classified under heading 8525, HTSUS, or alternatively, heading 9018, HTSUS. GRI 1 requires that we look to the terms of both headings and their relative chapter or section notes.

Note 1(m) to Section XVI, HTSUS, provides that articles of Chapter 90 are not covered under Section XVI. In turn, Note 1(h) to Chapter 90, HTSUS, states that Chapter 90 does not cover, inter alia, "television cameras, digital cameras and video camera recorders" of heading 8525, HTSUS. Therefore, if the subject infrared video goggles constitute "television cameras" of heading 8525, HTSUS, they cannot be classified under Chapter 90, which includes heading 9018, HTSUS.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. The ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level.

The EN to heading 8525, HTSUS, gives some guidance as to the scope of the term "television cameras." In particular, the EN provides the following, in pertinent part:

> (B) TELEVISION CAMERAS, DIGITAL CAMERAS AND VIDEO CAMERA RECORDERS
>
> This group covers cameras that capture images and convert them into an electronic signal that is:
>
> (1) transmitted as a video image to a location outside the camera for viewing or remote recording (i.e., *television cameras*); [*emphasis* added] [. . .]
>
> These cameras do not have any inbuilt capability of recording images. Some of these cameras may also be used with automatic data processing machines (e.g., webcams).

Certainly, when weighed *in isolation of other components*, the two cameras in the front panel appear to be "television cameras" of heading 8525, HTSUS. The two cameras capture images; convert those images into an electronic signal; and transmit that signal as a video image to a location outside the

camera (i.e., a desktop or laptop). A clinician can then view the video images from the outside using "off-the-shelf video viewing software," or record the videos remotely on the software (i.e., not on the cameras themselves). Finally, the cameras must also be used with automatic data processing machines since "[t]he goggles do not have their own power source or software[] and rely on the connected computer to provide these." Nonetheless, in considering the subject infrared video goggles *in their entirety*, we find that they fall outside of the terms of heading 8525, HTSUS.

The subject infrared video goggles exhibit characteristics and functions beyond those found in "television cameras" of heading 8525, HTSUS. The form factor of the goggles is the first characteristic that distinguishes the subject merchandise from television cameras. Here, the goggles "resemble a [v]irtual [r]eality headset" and are distinctly "*worn* by the patient" as opposed to being, for example, mounted on a tripod (e.g., broadcasting cameras) or fitted above a computer screen (e.g., webcams). The goggles also have a plastic enclosure "which goes around the eyes to block out all light," a characteristic that one may consider, at best, atypical of television cameras. The two cameras being pointed towards the patient's eyes enables the clinician to view the patient's eye movements in the first place, thereby signifying the subject merchandise's core function (i.e., "to assist in diagnosing vestibular disorders"). Notably, the *function* of the infrared and visible light LEDs, as elucidated by your response, is not merely to provide a light source on the camera's subject, but to observe the "abnormal eye movements [which] only occur when there is no visible light present as well as some abnormal eye movements [which] are suppressed with visible light." Taking the entirety of these characteristics and functions together, the subject infrared video goggles are more than mere "television cameras" of heading 8525, HTSUS, and must be classified elsewhere.

The EN to heading 9018, HTSUS, suggests that the "heading covers a very wide range of instruments and appliances which, in the vast majority of cases, are used only in professional practice (e.g., by doctors, surgeons, dentists, veterinary surgeons, midwives), either to make a diagnosis, to prevent or treat an illness or to operate, etc."[2] Additionally:

> The instruments and appliances classified here may be equipped with optical devices; they may also make use of electricity, either as motive power or for transmission, or as a preventive, curative or diagnostic agent. [. . .]
>
> (V) OTHER ELECTRO-MEDICAL APPARATUS
>
> This heading also covers electro-medical apparatus for preventive, curative or diagnostic purposes, other than X-ray, etc., apparatus of heading 90.22. This group includes:

[2] We note that the EN to heading 9018, HTSUS, further suggests that the heading does not cover "Spectacles, goggles and the like, corrective, protective or other" of heading 9004, HTSUS. The subject infrared video goggles do not fall under heading 9004, HTSUS. As the EN to heading 9004, HTSUS, states, "goggles" of that heading "usually compris[e] a frame or support with lenses or shields of glass or other material[] for use in front of the eyes," and are generally used to correct vision defects; protect the eyes from contaminants like dust, smoke, and gas, or from dazzle; and for viewing three-dimensional pictures. In contrast, the subject infrared video goggles are not primarily designed for aiding, enhancing, or protecting the wearer's vision. Nor do the subject infrared video goggles contain special lenses for the wearer to see through the goggles. The goggles are designed for the *clinician* to make observations, not for the patient to observe the surroundings through the goggles.

(1) Electro-diagnostic apparatus, which include: [. . .]

(x) Diagnostic apparatus incorporating or operating in conjunction with an automatic data processing machine for processing and visuali[z]ing clinical data, etc.

Neither the HTSUS nor the ENs provide a definition for "electro-diagnostic." In the absence of a definition of a term in the HTSUS or ENs, the term's correct meaning is its common and commercial meaning.[3] Common and commercial meaning may be determined by consulting dictionaries, lexicons, scientific authorities, and other reliable sources.[4] In examining subheading 9018.19, HTSUS, we previously consulted dictionary definitions for "diagnostic" and "diagnosis":

> The term "diagnostic" is defined in Webster's II New Riverside University Dictionary 372 (1988) as "1. Of, relating to, or used in a diagnosis. 2. Serving to identify a disease." The same term is defined in Dorland's Illustrated Medical Dictionary 458 (28th ed.) as "pertaining to or subserving diagnosis." The term "diagnosis" is defined in Webster's as "1. Med. The act or process of identifying or determining the nature of a disease by way of examination." The term "diagnosis" is defined in Dorland's as the determination of the nature of a case of disease. 2. the art of distinguishing one disease from another."[5]

The full term "electrodiagnosis" also appears in *Stedman's Medical Dictionary*:

> 282810 electrodiagnosis
>
> (ē-lek'trō-dī'ag-nō'sis)
>
> 1. The use of electronic devices for diagnostic purposes.
> 2. By convention, the studies performed in the EMG [electromyography] laboratory, i.e., nerve conduction studies and needle electrode examination (EMG proper).
>
> SYN: electroneurography[.][6]

We find that the subject infrared video goggles constitute "instruments used in medical sciences" under heading 9018, HTSUS, and specifically an "electro-diagnostic apparatus" of subheading 9018.19, HTSUS. The facts show that the goggles are designed to be used "by a trained medical professional," including "audiologists, ENT doctors, [and] physicians." Further, the subject merchandise is used "to make a diagnosis," specifically for vestibular disorders. As the goggles "do not have their own power source," they "make use of electricity" in part by pulling electric power from a connected computer, and *importantly*, the electricity is then used to provide an image of the patient's eyes under either infrared or visible light for a clinician to examine. The connection to a computer and the use of the software to generate an image and information useful for making diagnostic assessments demonstrate how the subject merchandise interacts with and "operat[es] in conjunction with an automatic data processing machine for processing and

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[3] *See* Nippon Kogaku, Inc. v. United States, 69 C.C.P.A. 89, 673 F.2d 380 (1982).

[4] *See* C.J. Tower & Sons v. United States, 69 C.C.P.A. 128, 673 F.2d 1268 (1982).

[5] Headquarters Ruling Letter (HQ) 961998 (May 7, 1999) (blood pressure monitor).

[6] *See electrodiagnosis*, STEDMAN'S MEDICAL DICTIONARY, Westlaw 282810 (database updated Nov. 2014).

visuali[z]ing clinical data," particularly the image of abnormal eye movements. The goggles, simply put, are "electronic devices" used "for diagnostic purposes." Considering these functions, the subject infrared video goggles meet the terms of subheading 9018.19, HTSUS, as "instruments used in medical sciences" and, more specifically, "other electro-diagnostic apparatus."

We now turn to the conclusion reached in NY N308716, which classified the subject merchandise under subheading 9018.90, HTSUS. As GRI 6 states, the classification of goods at the subheading level must be "on the understanding that only subheadings at the same level are comparable." In this instance, the terms "Electro-diagnostic apparatus (including apparatus for functional exploratory examination or for checking physiological parameters); parts and accessories thereof" found in subheading 9018.19, HTSUS, and "Other instruments and appliances and parts and accessories thereof" of subheading 9018.90, HTSUS, are at the same indentation level. These provisions are directly comparable. The latter subheading's provision for "*other* instruments" indicates that the subject merchandise can be classified therein *only* if it cannot be classified in the preceding provisions. Because, as discussed above, we found the subject goggles to be classifiable as an "electro-diagnostic apparatus" under subheading 9018.19, HTSUS, they cannot be classified under the "other" provision of subheading 9018.90, HTSUS.

CBP received one comment in response to our solicitation of comments. The commenter disagrees with CBP's interpretation of the term "electro-diagnostic" found in subheading 9018.19, HTSUS, and claims that the subject video goggles are properly classified under subheading 9018.90, HTSUS.

First, the commenter argues that CBP's interpretation of "electro-diagnostic" is overly broad. The commenter asserts that "the medical community defines electrodiagnosis in a more limited scope." In particular, the commenter cites a definition from an online clinical reference known as "eMedicine," which provides as follows:

> Electrodiagnosis is the field of study that, by employing the science of electrophysiology, uses electrical technology to study human neurophysiology. Neurodiagnostics (NDS), electromyography (EMG), and evoked potentials (EPs) are aspects of electrodiagnosis. Information needed to answer any questions regarding nerve injury, muscle injury, muscle disease, localization, and prognosis can be obtained through electrodiagnostic testing. This information should help to focus treatment on the exact site of injury.[7]

The commenter infers that "[t]he term electro-diagnostic apparatus includes the type of apparatus used in the fields cited above, i.e., electrophysiology,

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[7] *See Electromyography and Nerve Conduction Studies: Backgrounds, Indications, and Contraindications,* MEDSCAPE, https://emedicine.medscape.com/article/2094544-overview?form=fpf (last visited Dec. 18, 2024).

In further support of its interpretation of the term "electrodiagnostic," the commenter also cites a definition pulled from a Wikipedia article titled "Electrodiagnostic Medicine." However, we dismiss this Wikipedia article for consideration due to that website's unreliability as a source. *See* Zhe*jiang Amerisun Tech. Co. v. United States*, 687 F. Supp. 3d 1282, 1291–92 (Ct. Int'l Trade 2024) ("reject[ing] the reliability of Wikipedia articles as authoritative evidence deserving of judicial notice"); *BP Prods. North Am. Inc. v. United States*, 34 C.I.T. 676, 681 n.10 ("Based on the ability of any user to alter Wikipedia, the court is skeptical of it as a consistently reliable source of information. At this time, therefore, the court does not accept Wikipedia for purposes of judicial notice.").

electromyography and similar," as well as "additional types of 'electro diagnostic' apparatus" found in the parenthetical to subheading 9018.19, HTSUS: that is, "(including apparatus for functional exploratory examination or for checking physiological parameters)."

But the commenter did not address the first sense listed in the Stedman's entry, which defines "electrodiagnosis" broadly as "the use of electronic devices for diagnostic purposes." Moreover, the commenter did not acknowledge that its proposed eMedicine definition closely aligns with the second sense in the Stedman's entry, which defines "electrodiagnosis" as "[b]y convention, the studies performed in the EMG [electromyography] laboratory, i.e., nerve conduction studies and needle electrode examination (EMG proper)." The fact that both the broad and narrow senses appear in the Stedman's entry suggests that both meanings apply to the term "electrodiagnosis" as it pertains to subheading 9018.19, HTSUS.

Further, the EN to heading 9018, HTSUS, supports the notion that the term "electrodiagnosis" includes a broad category of diagnostic devices (provided that those devices meet all other requirements under the heading). For example, the proposed ruling referred to a broadly described "[d]iagnostic apparatus incorporating or operating in conjunction with an automatic data processing machine for processing and visuali[z]ing clinical data, etc." listed among the articles classifiable as an "[e]lectro-diagnostic apparatus" under Section (V)(1) of the EN. There is no indication in the EN that this general "diagnostic apparatus" must meet the commenter's narrow proposed criteria to be classifiable under the heading, thus the article's inclusion in the EN weighs against the commenter's assertions of a narrow interpretation of "electrodiagnosis". The commenter did not address how to reconcile this inclusion. While the commenter raises that subheading is "to be used in limited scope," the commenter did not offer any analysis of the EN to heading 9018, HTSUS, and failed to demonstrate why the term "electro-diagnostic apparatus" in the legal text necessitates a strictly narrow interpretation. Therefore, we affirm the use of the Stedman's Medical Dictionary definition for "electrodiagnosis" as applied in the proposed revocation ruling.

The commenter also argues that our interpretation contradicts an analysis found in Headquarters Ruling Letter (HQ) H304293, dated November 3, 2020, a ruling letter revoking and modifying previous treatment of certain digital blood pressure monitors. Prior rulings classified the blood pressure monitors at issue in HQ H304293 under subheading 9018.90, HTSUS, as "[o]ther instruments and appliances." CBP revoked and modified those prior rulings in HQ H304293 because the blood pressure monitors constituted "electrodiagnostic" appliances of subheading 9018.19, HTSUS, given their use of electrical components to gauge a patient's blood pressure. The commenter points to the following excerpt from HQ H304293:

> As described above, the BPMs [i.e., blood pressure monitors] measure the blood pressure of the user and uses that measurement to create an electrical pulse that is transmitted to an electronic device, in these cases a control unit with an LCD screen that displays the measurement in numbers. The measurement of blood pressure is a type of diagnosis. It is clear from the description of the BPMs that they utilize electrical components in the performance of the diagnosis.[8]

[8] HQ H304293 (Nov. 3, 2020).

The commenter claims that CBP's treatment of the blood pressure monitors contrasts with CBP's proposed treatment of the video goggles because the latter do not "utilize electrical components in the performance of a diagnosis" and are not checking any physiological parameters. "The fact that they function electronically," the commenter states in reference to the video goggles, "does not[,] in and of itself, mean that the goggles are electrodiagnostic." The commenter further argues that "[t]here are many medical instruments and apparatus that may function electronically but are not considered 'electrodiagnostic,'" and suggests that such devices may be provided for under a statistical reporting number provision for "electro-medical instruments and appliances."

Notwithstanding the fact that the articles at issue in HQ H304293 and the instant video goggles are readily distinguishable, we do not find the treatment of the two to be contradictory. Quite the contrary, the video goggles are in fact "utiliz[ing] electrical components in the performance of a diagnosis." As the proposed ruling indicates, the subject video goggles pull electric power from a connected computer to capture abnormal eye movements under infrared or visible light for a clinician to diagnose vestibular disorders. This function squarely constitutes "the use of electronic devices for diagnostic purposes" and aligns with our approach to the blood pressure monitors of HQ H304293. While the commenter correctly notes that the mere fact that a device functions electronically does not mean such a device is "electrodiagnostic," we find it more than sufficient that the subject video goggles also provide visual insights that are used to aid a clinician's diagnosis of vestibular disorders.

Finally, we note that the commenter's reference to a statistical reporting number provision contravenes GRI 6, which states *inter alia* that only subheadings at the same level of indentation are comparable. Here, the provision for "[e]lectro-diagnostic apparatus" under subheading 9018.19, HTSUS, can only be compared to the relevant provision for "[o]ther instruments and appliances and parts and accessories thereof" under subheading 9018.90, HTSUS, because both occur at the same level of indentation. As such, we cannot compare subheading 9018.19, HTSUS, to a statistical reporting number provision for "electro-medical instruments and appliances" because neither provision occurs at the same indentation level.

HOLDING:

By application of GRIs 1 and 6, the subject infrared video goggles are classified under heading 9018, specifically subheading 9018.19.95, HTSUS, which provides for "Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments; parts and accessories thereof: Electro-diagnostic apparatus (including apparatus for functional exploratory examination or for checking physiological parameters); parts and accessories thereof: Other: Other: Other." The general column one rate of duty is free.

Pursuant to U.S. Note 20 to Subchapter III, Chapter 99, HTSUS, products of China classified under subheading 9018.19.95, HTSUS, unless specifically excluded, are subject to an additional 25 percent ad valorem rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.01, in addition to subheading 9018.19.95, HTSUS, listed above.

The HTSUS is subject to periodic amendment, so you should exercise reasonable care in monitoring the status of goods covered by the Note cited above and the applicable Chapter 99 subheading. For background information regarding the trade remedy initiated pursuant to Section 301 of the Trade Act of 1974, including information on exclusions and their effective dates, you may refer to the relevant parts of the USTR and CBP websites, which are available at https://ustr.gov/issue-areas/enforcement/section-301-investigations/tariff-actions and https://www.cbp.gov/trade/remedies/301-certain-products-china, respectively.

EFFECT ON OTHER RULINGS:

NY N308716 (January 8, 2020) is hereby revoked.

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

Sincerely,

YULIYA A. GULIS,
Director
Commercial and Trade Facilitation Division

PROPOSED REVOCATION OF ONE RULING LETTER AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF ALUMINUM LOCKING BRACKETS

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

ACTION: Notice of proposed revocation of one ruling letter and proposed revocation of treatment relating to the tariff classification of aluminum locking brackets.

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) intends to revoke one ruling letter concerning tariff classification of aluminum locking brackets under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before March 19, 2025.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Shannon L. Stillwell, Commercial and Trade Facilitation Division, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. CBP is also allowing commenters to submit electronic comments to the following email address: *1625Comments@cbp.dhs.gov*. All comments should reference the title of the proposed notice at issue and the *Customs Bulletin* volume, number and date of publication. Arrangements to inspect submitted comments should be made in advance by calling Ms. Shannon L. Stillwell at (202) 325–0739.

FOR FURTHER INFORMATION CONTACT: Nicholas A. Horne, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–7941.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of aluminum locking brackets. Although in this notice, CBP is specifically referring to New York Ruling Letter ("NY") N327317, dated July 28, 2022 (Attachment A), this notice also 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 the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this comment 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 N327317, CBP classified aluminum locking brackets in heading 8301, HTSUS, specifically in subheading 8301.40.60, HTSUS, which provides for "Padlocks and locks (key, combination or electrically operated), of base metal; clasps and frames with clasps, incorporating locks, of base metal; keys and parts of any of the foregoing articles, of base metal: Other locks: Other: Other." CBP has reviewed

NY N327317 and has determined the ruling letter to be in error. It is now CBP's position that aluminum locking brackets are properly classified in heading 8302, HTSUS, specifically in subheading 8302.50.00, HTSUS, which provides for ""Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof: Hat-racks, hat pegs, brackets and similar fixtures, and parts thereof."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N327317 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H340174, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing 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.

YULIYA A. GULIS,
Director
Commercial and Trade Facilitation Division

Attachments

N327317

July 28, 2022
CLA-2–83:OT:RR:NC:N1:121
CATEGORY: Classification
TARIFF NO.: 8301.40.6060, 9903.88.15

SCOTT LINDSEY
SYSCO
1390 ENCLAVE PKWY
HOUSTON, TX 77077

RE: The tariff classification of aluminum locking brackets from China

DEAR MR. LINDSEY:

This replaces Ruling Number N327091 dated July 26, 2022. Ruling Number N327091 incorrectly noted the Section 301 additional trade remedies rate. The correct additional duty rate for products of China classified under subheading 8301.40.6060, HTSUS, unless specifically excluded is 7.5% ad valorem. A complete corrected ruling follows.

In your letter dated July 14, 2022, you requested a tariff classification ruling.

The merchandise under consideration is two styles of wall mounted aluminum locking brackets (product numbers 100122 and 100123). Both styles are identical except that product number 100122 is mounted using adhesive tape and product number 100123 is mounted using mounting screws. Each locking bracket is designed to mount and secure soap/shampoo dispenser bottles in hotel bathroom areas. Once mounted, the mechanical locking lid is closed over a specially designed soap/shampoo bottle, securing the bottle in place. Hotel personnel can access the bottle to replace or refill it by unlocking the bracket with the included specially designed keys.

The applicable subheading for the aluminum locking brackets, product numbers 100122 and 100123, will be subheading 8301.40.6060, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Padlocks and locks (key, combination or electrically operated) of base metal: Other locks: Other: Other. The rate of duty will be 5.7 percent ad valorem.

Pursuant to U.S. Note 20 to Subchapter III, Chapter 99, HTSUS, products of China classified under subheading 8301.40.6060, HTSUS, unless specifically excluded, are subject to an additional 7.5 percent ad valorem rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.15, in addition to subheading 8301.40.6060, HTSUS, listed above.

The HTSUS is subject to periodic amendment so you should exercise reasonable care in monitoring the status of goods covered by the Note cited above and the applicable Chapter 99 subheading. For background information regarding the trade remedy initiated pursuant to Section 301 of the Trade Act of 1974, you may refer to the relevant parts of the USTR and CBP websites, which are available at *https://ustr.gov/issue-areas/enforcement/section-301-investigations/tariff-actions* and *https://www.cbp.gov/trade/remedies/301-certain-products-china*, respectively.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided at *https://hts.usitc.gov/current*.

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 Jennifer Jameson at *jennifer.d.jameson@cbp.dhs.gov*.

Sincerely,

STEVEN A. MACK
Director
National Commodity Specialist Division

HQ H340174
OT:RR:CTF:CPMMA H340174 NAH
CATEGORY: Classification
TARIFF NO.: 8302.50.00; 9903.88.03

SCOTT LINDSEY
SYSCO
1390 ENCLAVE PKWY
HOUSTON, TX 77077

RE: Revocation of NY N327317; The tariff classification of aluminum locking brackets from China.

DEAR MR. LINDSAY,

This letter is in reference to New York Ruling Letter (NY) N327317, issued to you on July 28, 2022. The ruling concerned the tariff classification of aluminum locking brackets from China under the Harmonized Tariff Schedule of the United States (HTSUS). In NY N327317, U.S. Customs and Border Protection (CBP) classified the aluminum locking brackets under heading 8301, HTSUS, as "[p]adlocks and locks (key, combination or electrically operated), of base metal; clasps and frames with clasps, incorporating locks, of base metal; keys and parts of any of the foregoing articles, of base metal." After reviewing NY N327317, CBP has determined that the classifications therein are incorrect. For the reasons set forth below, CBP hereby revokes NY N327317.

FACTS:

The aluminum locking brackets were described in NY N327317 as follows:

> The merchandise under consideration is two styles of wall mounted aluminum locking brackets (product numbers 100122 and 100123). Both styles are identical except that product number 100122 is mounted using adhesive tape and product number 100123 is mounted using mounting screws. Each locking bracket is designed to mount and secure soap/shampoo dispenser bottles in hotel bathroom areas. Once mounted, the mechanical locking lid is closed over a specially designed soap/shampoo bottle, securing the bottle in place. Hotel personnel can access the bottle to replace or refill it by unlocking the bracket with the included specially designed keys.

ISSUE:

Whether the subject aluminum locking brackets are classified under heading 8301, HTSUS, or under heading 8302, HTSUS.

LAW AND ANALYSIS:

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

those subheadings and any related subheading notes and, *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable.

The 2024 HTSUS headings under consideration are as follows:

8301	Padlocks and locks (key, combination or electrically operated), of base metal; clasps and frames with clasps, incorporating locks, of base metal; keys and parts of any of the foregoing articles, of base metal:
8301.40	Other locks:
8301.40.60	Other:
8301.40.60	Other.
...	
8302	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof:
8302.50.00	Hat-racks, hat pegs, brackets and similar fixtures, and parts thereof.

* * * * *

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of the headings. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN 83.01 states in pertinent part:

> This heading covers fastening devices operated by a key (e.g., locks of the cylinder, lever, tumbler or Bramah types) or controlled by a combination of letters or figures (combination locks).
>
> It also includes electrically operated locks (e.g., for street doors of blocks of flats or for lift doors). These locks may be operated, e.g., by insertion of a magnetic card, by entering the combination data on an electronic keyboard, or by radio wave signal.
>
> The heading therefore covers, inter alia :
>
> (A) Padlocks of all types for doors, trunks, chests, bags, cycles, etc., including key-operated locking hasps.
>
> (B) Locks for doors or gates, letter boxes, safes, boxes or caskets, furniture, pianos, trunks, suit-cases, handbags, dispatch-cases, etc., for automobiles, railway-rolling-stock, tramcars, etc., for lifts, shutters, sliding doors, etc.
>
> (C) Clasps and frames with clasps, incorporating locks.
>
> The heading also covers:

(1) Base metal parts of the articles mentioned above clearly recognisable as such (e.g., cases, bolts, striking plates and sockets, thread escutcheons, face-plates, wards, mechanisms and cylinder barrels).

(2) Base metal keys for the articles mentioned above, finished or not (including roughly cast, forged or stamped blanks).

The heading also includes special railway coach compartment keys, skeleton keys, etc.

The heading does not, however, include simple latches or bolts, etc. (heading 83.02), nor fasteners and clasps (not key or combination operated) for handbags, brief-cases, executive-cases, etc. (heading 83.08)

EN 83.02 states in pertinent part:

This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coachwork, etc. Goods within such general classes remain in this heading even if they are designed for particular uses (e.g., door handles or hinges for automobiles). The heading does not, however, extend to goods forming an essential part of the structure of the article, such as window frames or swivel devices for revolving chairs.

The heading covers:

. . .

(G) Hat-racks, hat-pegs, brackets (fixed, hinged or toothed, etc.) and similar fixtures such as coat racks, towel racks, dish-cloth racks, brush racks, key racks.

* * *

Pursuant to GRI 1, CBP must consider the appropriate heading for the merchandise before considering any subheadings. The two styles of wall mounted aluminum locking brackets at issue were classified under heading 8301, HTSUS, as "[p]adlocks and locks (key, combination or electrically operated), of base metal; clasps and frames with clasps, incorporating locks, of base metal; keys and parts of any of the foregoing articles, of base metal."

In *Home Depot United States, Inc. v. United States* (*Home Depot*), the Court of International Trade (CIT) examined heading 8301, HTSUS. 435 F. Supp. 3d 1311 (Ct. Int'l Trade 2020). The CIT determined the definition for a "lock" is "a device for securing a door, gate, lid, drawer, or the like in position when closed, consisting of a bolt or system of bolts propelled and withdrawn by a mechanism operated by a key, dial, etc." *Id.* at 1311 (citing Dictionary.com, http://www.dictionary.com/browse/lock?s=t (last visited Sept. 14, 2017)). Further, the CIT determined "'key-operated' lock" indicated "that a key performs a function, or produces an appropriate effect of locking or unlocking the device." *Id.* at 1313. With that in mind we turn to the subject merchandise.

The subject merchandise (product numbers 100122 and 100123) are identical except that product number 100122 is mounted using adhesive tape and product number 100123 is mounted using screws. Each bracket is designed to mount and secure a full-size soap/shampoo bottle on a wall in a hotel bathroom area. Hotel personnel can access the bottle to replace or refill it by opening the bracket with the included "key". The subject merchandise is clearly not a combination or electrically operated lock. The locking mechanism is a simple plate of metal that functions as a lid over a small metal box.

The lid has a "tab" on the end that slots into a preformed slot/hole, in the box, to close the box. Further, the lock mechanism does not contain tumblers, cylinders, pins, levers, or any other of the myriad parts that are generally found in a mechanical lock. On first brush, the merchandise would appear to be a perfect fit for heading 8301, HTSUS, per the definitions provided by *Home Depot*, however, the securing mechanism and "key" are not traditional locks and keys and must be further examined.

The "key" is merely a specifically formed piece of iron that can push the tab out of the slot to open the metal box. The "key" does perform a function, to push the tab out of the slot, that has the appropriate effect of unlocking the device per the definition found in *Home* Depot. *See* 435 F. Supp. 3d at 1313. However, the lock mechanism does not meet the definition provided in *Home* Depot. *See id.* at 1311. The locking mechanism is very simple, it does fasten/lock, but it does not contain "a bolt or system of bolts propelled and withdrawn by a mechanism operated by a key." In fact, the locking mechanism is more similar to a simple latch than to an actual lock, which are designed to be precise and complicated structures that may only open when a specific structure or design is introduced to it. This conclusion is reinforced by the simplicity of the "key" in the subject merchandise. While the key meets the *Home Depot* definition, the key is so simple and easily substituted for any other item, that can push the tab out of the slot and produce the same unlocking effect, that it further highlights the subject merchandise is not a traditional lock. The locking mechanism of the aluminum locking brackets is a formed piece of metal that slots into a slot/groove formed to accept it and is released almost as simply as it locks. It is a simple latch that is explicitly precluded from heading 8301, HTSUS, per the direction of EN 83.01, "the heading does not, however, include simple latches or bolts, etc. (heading 83.02)."

Turning to heading 8302, HTSUS, the CIT carefully examined the heading in *Moen Inc. v. United States* (*Moen*). 294 F. Supp. 3d 1337 (Ct. Int'l Trade 2018). The CIT explicitly determined that heading 8302, HTSUS, "encompasses objects made of base metal that are affixed to a wall and are used to hang, hold, or support other items." *Moen*, 294 F. Supp. 3d at 1343. The subject merchandise is made of base metal, designed to be affixed to a wall with adhesive tape or screw, and is used to hang, hold, or support a shampoo or other bottle. Further, CBP now considers the subject merchandise to be more similar to other articles that can securely contain and hang other items. *See* Headquarters Ruling Letter (HQ) H280671, dated August 16, 2017 (classifying two shaft supports and an operating lever which hang and lock an automatic hopper door closed of a rail car under heading 8302, HTSUS); HQ H076723, dated November 24, 2010 (classifying fittings for sailboats such as self-locking shackles under heading 8302, HTSUS); and HQ 962366, dated July 12, 1999 (applying the principals of *ejusdem generis* to classify a steel rack for hanging sheets and other oversized documents under heading 8302, HTSUS). As such, the aluminum locking brackets are properly classified under heading 8302, HTSUS. Finally, as directed by GRI 6, an examination of the subheadings reveals the appropriate classification is under subheading 8302.50.00, HTSUS, as a similar fixture for the hanging of items.

HOLDING:

By application of GRIs 1 and 6, the subject aluminum locking brackets are classified in heading 8302, HTSUS, specifically in subheading 8302.50.00, HTSUS, as "Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal; and base metal parts thereof: Hat-racks, hat pegs, brackets and similar fixtures, and parts thereof." The 2024 column one, general rate of duty is free.

Pursuant to U.S. Note 20 to Subchapter III, Chapter 99, HTSUS, products of China classified under subheading 8302.50, HTSUS, unless specifically excluded, are subject to an additional 25 percent *ad valorem* rate of duty. At the time of importation, you must report the Chapter 99 subheading, *i.e.*, 9903.88.03, HTSUS, in addition to subheading 8302.50.00, HTSUS, listed above.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided at https://hts.usitc.gov/.

EFFECT ON OTHER RULINGS:

NY N327317, dated July 28, 2022, is hereby revoked.

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

Sincerely,

YULIYA A. GULIS,
Director
Commercial and Trade Facilitation Division

PROPOSED REVOCATION OF ONE RULING LETTER AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF FROZEN BAKED GOODS

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

ACTION: Notice of proposed revocation of one ruling letter and proposed revocation of treatment relating to the tariff classification of frozen baked goods.

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) intends to revoke one ruling letter concerning tariff classification of frozen baked goods under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before March 19, 2025.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Shannon L. Stillwell, Commercial and Trade Facilitation Division, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. CBP is also allowing commenters to submit electronic comments to the following email address: *1625Comments@cbp.dhs.gov*. All comments should reference the title of the proposed notice at issue and the *Customs Bulletin* volume, number and date of publication. Arrangements to inspect submitted comments should be made in advance by calling Ms. Shannon L. Stillwell at (202) 325–0739.

FOR FURTHER INFORMATION CONTACT: John E. Rhea, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0035.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and

related laws. In addition, both the public 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of frozen baked goods. Although in this notice, CBP is specifically referring to New York Ruling Letter ("NY") N284950, dated May 3, 2017 (Attachment A), this notice also 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 the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this comment 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 N284950, CBP classified frozen baked goods in heading 1905, HTSUS, specifically in subheading 1905.90.10, HTSUS, which provides for "Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa: Other: Bread, pastry, cakes, biscuits, and similar baked products, and puddings, whether or not containing chocolate, fruit, nuts or confectionery: Frozen: Pastries, cakes and similar sweet baked products." CBP has reviewed NY N284950 and has determined the ruling letter to be in error. It is now CBP's position that frozen baked goods are properly classified, in heading 1905, HTSUS, specifically in subheading 1905.90.90, HTSUS, which provides for "Bread, pastry, cakes, biscuits and other baker's wares, whether or not containing cocoa; communion wafers, empty cachets of

a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products: Other: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N284950 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H293899, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing 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.

YULIYA A. GULIS,
Director
Commercial and Trade Facilitation Division

Attachments

N284950
May 3, 2017
CLA-2–19:OT:RR:NC:N4:228
CATEGORY: Classification
TARIFF NO.: 1905.90.1041

BRENDA J. MIKELL
KUEHNE-NAGEL
10 EXCHANGE PLACE, 20TH FLOOR
JERSEY CITY, NJ 07302

RE: The tariff classification of frozen baked products from Belgium.

DEAR MS. MIKELL:

In your letter dated March 28, 2017 you requested a tariff classification ruling on behalf of Creapan USA Corp., IL.

Ingredients breakdowns, manufacturing flow charts, and samples accompanied your inquiry. Creapan brand "Traditional Dutch Crepes," item number 100516, is said to contain approximately 37 percent water, 31 percent wheat flower, 14 percent palm oil, 10 percent eggs, 5 percent skimmed milk powder, 3 percent sugar, and less than 1 percent each salt, monocalcium phosphate, and sodium bicarbonate. A box is said to contain 8 crepes individually wrapped in plastic film, 50 grams each, net weight. The consumer instructions state one crepe may be pan fried for 2 minutes over medium heat with a little oil or butter, or microwaved for 40 seconds at 1000 watts.

Creapan brand "Delicious Mini Pancake Bites," item number 303822, is said to contain approximately 32 percent wheat flour, 19 percent eggs, 18 percent palm oil, 13 percent sugar, 11 percent water, 6 percent whey powder, and less than 1 percent each, monocalcium phosphate, sodium bicarbonate, salt, citric acid, and vanilla milk flavoring. A box is said to contain 30 mini pancakes, 255 grams, net weight. The consumer instructions state 6 mini pancakes may be pan fried for 3 minutes over medium heat with a little butter, or microwaved for 40 seconds at 800 watts, or heated in an oven for 8 minutes at 180° Centigrade.

The applicable subheading for the two products will be 1905.90.1041, Harmonized Tariff Schedule of the United States (HTSUS), which provides for bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa . . . other . . . bread, pastry, cakes, biscuits, and similar baked products, and puddings, whether or not containing chocolate, fruit, nuts or confectionery . . . frozen . . . pastries, cakes and similar sweet baked products . . . . The general rate of duty will be free.

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

This merchandise is subject to The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (The Bioterrorism Act), which is regulated by the Food and Drug Administration (FDA). Information on the Bioterrorism Act can be obtained by calling FDA at 301–575–0156, or at the Web site www.fda.gov/oc/bioterrorism/bioact.html.

Your inquiry does not provide enough information for us to give classifications on the samples of crepes with Belgian chocolate, apple blueberry, strawberry, and Dulce de leche fillings. Your request should include complete ingredients breakdowns for the crepes, the fillings, narrative descriptions of

the manufacturing processes, and manufacturing flowcharts respectively. The samples submitted will be retained in our office for 30 days pending resubmission of your ruling request. When this information is available, you may wish to consider resubmission of your request to the Director, National Commodity Specialist Division, Customs and Border Protection, 201 Varick Street, Suite 501, New York NY 10014, Attn: Binding Ruling Request. If you decide to resubmit your request, please include all of the material that we have returned to you and a copy of this letter.

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 Bruce N. Hadley, Jr. at bruce.hadleyjr@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK
Director
National Commodity Specialist Division

HQ H293899
OT:RR:CTF:FTM H293899 JER
CATEGORY: Classification
TARIFF NO.: 1905.90.9090

BRENDA J. MIKELL
KUEHNE-NAGEL
10 EXCHANGE PLACE, 20TH FLOOR
JERSEY CITY, NJ 07302

RE: Proposed Revocation of NY N284950; Tariff Classification of Frozen Baked Products

DEAR MS. MIKELL:

On May 3, 2017, U.S. Customs and Border Protection ("CBP") issued New York Ruling Letter ("NY") N284950 in response to your March 28, 2017, request for a binding ruling on behalf of Creapan USA Corp., pertaining to the tariff classification of frozen baked goods from Belgium under the Harmonized Tariff Schedule of the United States Annotated ("HTSUSA"). In NY N284950, CBP classified the two frozen baked goods, "Traditional Dutch Crepes," item number 100516, and "Delicious Mini Pancake Bites," item number 303822 , under subheading 1905.90.10, HTSUS, which provides for "Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa: Other: Bread, pastry, cakes, biscuits, and similar baked products, and puddings, whether or not containing chocolate, fruit, nuts or confectionery: Frozen: Pastries, cakes and similar sweet baked products." CBP has since reviewed NY N284950 and determined that it was incorrect. For the reasons set forth below, CBP is revoking NY N284950 to reflect the correct tariff classification of both frozen baked goods.

FACTS:

NY N284950 described the "Traditional Dutch Crepes" as follows:

> Crepean brand "Traditional Dutch Crepes," item number 100516, is said to contain approximately 37 percent water, 31 percent wheat flower, 14 percent palm oil, 10 percent eggs, 5 percent skimmed milk powder, 3 percent sugar, and less than 1 percent each salt, monocalcium phosphate, and sodium bicarbonate. A box is said to contain 8 crepes individually wrapped in plastic film, 50 grams each, net weight. The consumer instructions state one crepe may be pan fried for 2 minutes over medium heat with a little oil or butter, or microwaved for 40 seconds at 1000 watts.

NY N284950 described the "Delicious Mini Pancake Bites" as follows:

> Creapan brand "Delicious Mini Pancake Bites," item number 303822, is said to contain approximately 32 percent wheat flour, 19 percent eggs, 18 percent palm oil, 13 percent sugar, 11 percent water, 6 percent whey powder, and less than 1 percent each, monocalcium phosphate, sodium bicarbonate, salt, citric acid, and vanilla milk flavoring. A box is said to contain 30 mini pancakes, 255 grams, net weight. The consumer instructions state 6 mini pancakes may be pan fried for 3 minutes over medium heat with a little butter, or microwaved for 40 seconds at 800 watts, or heated in an oven for 8 minutes at 180° Centigrade.

ISSUE:

Whether the subject crêpes and pancakes are classified under subheading 1905.90.10, HTSUS, or under subheading 1905.90.90, HTSUS.

LAW AND ANALYSIS:

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

The 2024 HTSUS provisions under consideration are as follows:

1905	Bread, pastry, cakes, biscuits and other baker's wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products.
	* * *
1905.90	Other:
1905.90.10	Bread, pastries, cakes, biscuits, pudding and similar baked goods
1905.90.90	Other...
1905.90.90.90	Other...
	* * * * *

The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the HTSUS at the international level. While not legally binding or 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 (August 23, 1989).

The EN to 1905, HTSUS, provides, in relevant part, as follows:

19.05 – Bread, pastry, cakes, biscuits and other baker's wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products.

1905.10 – Crispbread

1905.20 - Gingerbread and the like

- Sweet biscuits; waffles and wafers:

1905.31 - - Sweet biscuits

1905.32 - - Waffles and wafers

1905.40 - Rusks, toasted bread and similar toasted products

1905.90 – Other

(A) Bread, pastry, cakes, biscuits and other balers' wares, whether or not containing cocoa.

This heading covers all bakers' wares. The most common ingredients of such wares are cereal flours, leavens and salt but they may also contain

other ingredients such as : gluten, starch, flour of leguminous vegetables, malt extract or milk, seeds such as poppy, caraway or anise, sugar, honey, eggs, fats, cheese, fruit, cocoa in any proportion, meat, fish, bakery "improvers", etc....[.]

* * *

The heading includes the following products:

(1) Ordinary Bread

(2) Gluten bread

(3) Unleavened bread

(4) Crispbread

(5) Rust, toasted bread, and other similar toasted products

(6) Gingerbread and the like

(7) Pretzels

(8) Biscuits

a. Plain biscuits

b. Sweet biscuits

(9) Waffles and wafers which are light fine bakers' wares baked between patterned metal plates.

(10) Pastries and cakes, containing ingredients such as flour, starches, butter or other fats, sugar milk, cream, eggs, cocoa, chocolate, coffee, honey, fruit, liqueurs, brandy, albumen, cheese, meat, fish, flavourings, yeast, or other leavening agents.

(11) Certain bakery products made without flour

(12) Crêpes and pancakes

(13) Quiche

(14) Pizza

(15) Crisp savory food products

* * * * *

Classification of the goods under heading 1905, HTSUS, is not in dispute. The decision in NY N284950 correctly classified the two baked frozen goods under heading 1905, HTSUS, because based on their description, ingredients, and manner of production the "Traditional Dutch Crepes," and "Delicious Mini Pancake Bites," are described by the terms of the heading. In particular, EN 19.05 A (12) expressly lists crêpes and pancakes as goods that are included in heading 1905, HTSUS. Similarly, based on the terms and construction of the subheadings, both products are provided for under the terms of subheading 1905.90, HTSUS. This is evident based on the terms of the preceding six-digit subheadings which provide for goods *eo nomine* or by specific product type. Similarly, EN 19.05 lists the goods by name under their respective subheadings, none of which include crêpes or pancakes. For instance, subheading 1905.10, HTSUS, provides for crispbread, while subheading 1905.20, HTSUS, provides for gingerbread and sweet biscuits, and 1905.32 provides for waffles and wafers. Crêpes and pancakes not being

enumerated *eo nomine* in any of the preceding subheadings can only be classified in the remaining subheading 1905.90 HTSUS, as "Other."

At issue is the tariff classification of the subject crêpes and pancakes. Subheading 1905.90.10, HTSUS, provides for "Bread, pastry, cakes, biscuits and similar baked products and puddings, whether or not containing chocolate, fruit, nuts or confectionery." Because crêpes and pancakes are not bread, pastry, cakes, biscuits or puddings, in order for the subject "Traditional Dutch Crepes" and "Delicious Mini Pancake Bites," to be classified under subheading 1905.90.10, these products would have to be classifiable as "similar baked goods." For purposes of subheading 1905.90.10, HTSUS, to be classified as a "similar baked products" the goods must be baked and the goods must be similar to bread, pastry, cakes, biscuits or puddings. Conversely, for the subject goods to be classified under subheading 1905.90.90, HTSUS, the subject crêpes and pancakes would have to be defined and classifiable as "other bakers' wares."

In Headquarters Ruling Letter ("HQ") H015429, dated December 11, 2007, CBP discussed the definition of "baker's wares" stating that:

> The term "bakers' wares" is not defined in the HTSUS or ENs. As such, we presume the correct meaning to be the same as its common meaning understood in trade and commerce. *See*, *Schulstad USA, Inc., v. United States*, 26 C.I.T. 1347, 240 F. Supp. 2d 1335, 1351 (2002). Since the dictionary does not define the compound term "bakers' wares", we examine the definition of each word individually. The term "baker" is defined as "one that specializes in the making of breads, cakes, cookies, and pastries". The term "wares" is defined as "manufactured articles...offered for sale". *See*, Webster's Third New International Dictionary (Unabridged) (1961). Accordingly, "bakers' wares" can be understood to mean "manufactured articles offered for sale by one that specializes in the making of breads, cakes, cookies, and pastries", such as those articles commonly sold in a bakery.

Similarly, in HQ W968393, dated July 16, 2008, CBP expounded on the definition of "bakers' wares" within the context of the subheading concerning "other bakers' wares," noting that:

> This definition [of baker's wares] was based on the dictionary definition of the word "baker" and the word "wares" since we were unable to find a dictionary that defined the compound term "bakers' wares". The text of heading 1905, HTSUS, provides for "other bakers' wares" which, when read in the context of the entire clause of which this expression is a part, leads us to now find that the term "other bakers' wares" refers to baked goods (or wares) other than the "bread, pastry, cakes, [and] biscuits" specified in the heading. [Emphasis added].

Based on the above definition, "other baker's wares" is distinguishable from bread, pastry, cakes, and biscuits. Likewise, given the structure of the subheadings, it follows that "other baker's wares" is also distinguishable from "similar baked goods" since such baked goods must be similar to bread, pastry, cakes, and biscuits.

Pancakes are defined as "a flat cake made of thin batter and cooked on a griddle on both sides." *See* Pancake, *https://www.merriam-webster.com/dictionary/pancake* (Last visited Nov. 20, 2024). A crêpe is defined as a small, very thin pancake. Both pancakes and crêpes begin as a batter that is poured onto either on a griddle, a skillet or pan cooked over high heat. *See* Crepes v.

Pancakes Are They The Same, *https://www.dulcecrepes.com/blog/crepes-vs-pancakes/* (Last visited Nov. 20, 2024); *see also*, The Difference Between Crepes and Pancakes Explained, Allie Sivak, *https://www.chowhound.com/food-news/176459/what-is-the-difference-between-crepes-and-pancakes/* (Last visited November 20, 2024). *See also*, Crepes vs. Pancakes: What's The Difference?, *https://www.tastingtable.com/677298/crepes-vs-pancakes-whats-the-difference/* (Last visited Nov. 20, 2024). Unlike bread, cakes, pastries, and biscuits, crêpes, and pancakes are not oven baked. *Id*. Instead, they are cooked on a stove top. Similarly, pancakes are not used as a dessert like pastries, cakes, and puddings. Although, crêpes can be used as a dessert, crêpes are also used as a breakfast food or dish to be served during brunch. *Id*. Crêpes can be filled with either a sweetened filing (e.g., fruit, chocolate, creams) or with savory fillings such as vegetables, sauces, meats, sea foods or poultry. *Id*. Because the subject crêpes and pancakes are not oven baked and are not used (or exclusively used) as a dessert, it cannot be said that they are baked goods which are similar to breads, cakes, pastries, or biscuits. Lastly, although subheading 1905.90.10, HTSUS is not limited to dessert products, it does require that its products be oven baked. The decision in *Danish Bakers, Inc. v. United States*, 53 Cust. Ct. 168, 169, C.D. 2490, C.D. 2490 (1964) stated that "frozen foodstuff cannot be classified with baked articles if not in fact baked before freezing." Thus, a batter-based product which is cooked on a griddle, skillet or pan cannot be classified as an oven baked product if it is not baked in an oven. The subject goods are not oven baked and therefore are not classifiable under subheading 1905.90.10, HTSUS.

Instead, crêpes and pancakes are more akin to waffles and wafers, which EN 19.05 (9) describe as being "light fine bakers' wares baked between patterned metal plates." Much like waffles and wafers crêpes and pancakes begin as a batter, which is cooked on a hot metal griddle, skillet, or pan. Like waffles, they are typically served during breakfast and are not oven baked. However, crêpes and pancakes are not classified as a waffles or wafers under subheading 1905.32, HTSUS, since this subheading is specific to waffles and wafers. As previously established, crêpes and pancakes are not classified as baked goods, which are similar to bread, cakes, pastries, biscuits, or puddings in subheading 1905.90.10, HTSUS. Accordingly, when as the case is here, a product is not specifically provided for under a specific subheading, they are classified in a basket provision or residual provision. *See E.M. Industries v. U.S.*, 999 F. Supp. 1473, 1480 (CIT 1998) ("'Basket' or residual provisions of HTSUS headings ... are intended as a broad catch-all to encompass the classification of articles for which there is no more specifically applicable subheading."). The residual provision for "other baker's wares" not specifically provided for is 1905.90.90, HTSUS, which provides for, "Bread, pastry, cakes, biscuits and other baker's wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products: Other: Other."

Classifying the subject crêpes and pancakes under subheading 1905.90.90, HTSUS, is consistent with previous rulings in which CBP classified crêpes and pancakes under subheading 1905.90.90, HTSUS. For example, in NY R03167, dated March 20, 2006, CBP classified pancakes stuffed with toppings under subheading 1905.90.90, HTSUS. *See also*, NY N114318, dated July 16, 2010 (In which CBP classified frozen pancakes stuffed with potato, rice, and onion in subheading 1905.90.90). Likewise, CBP has previously classified crêpes in subheading 1905.90.90, HTSUS. In NY N244223, dated August 13,

2013, CBP classified crêpes under subheading 1905.90.90, HTSUS. *See also*, NY E89245, dated November 10, 1999, and NY 878340, dated October 8, 1992 (In both rulings, CBP classified crêpes in subheading 1905.90.90, HTSUS).

HOLDING:

By application of GRI 1, the subject "Traditional Dutch Crepes" and "Delicious Mini Pancake Bites," are classified in heading 1905, HTSUS, specifically, in subheading 1905.90.90, HTSUS, which provides for: "Bread, pastry, cakes, biscuits and other baker's wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products: Other: Other: Other." The 2024 column one, general rate of duty is 4.5 % *ad valorem*.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the internet at https://hts.usitc.gov/current.

EFFECT ON OTHER RULINGS:

NY N284950, dated May 3, 2017, is REVOKED.

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

Sincerely,

YULIYA A. GULIS,
Director
Commercial and Trade Facilitation Division

QUARTERLY INTERNAL REVENUE SERVICE INTEREST RATES USED IN CALCULATING INTEREST ON OVERDUE ACCOUNTS AND REFUNDS OF CUSTOMS DUTIES

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

ACTION: General notice.

SUMMARY: This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will decrease from the previous quarter. For the calendar quarter beginning January 1, 2025, the interest rates for underpayments will be 7 percent for both corporations and non-corporations. The interest rate for overpayments will be 7 percent for non-corporations and 6 percent for corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: The rates announced in this notice are applicable as of January 1, 2025.

FOR FURTHER INFORMATION CONTACT: Bruce Ingalls, Revenue Division, Collection Refunds & Analysis Branch, 8899 E 56th Street, Mail Stop 203J, Indianapolis, IN 46249; telephone (317) 298–1107.

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 provides 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 2024–25, the IRS determined the rates of interest for the calendar quarter beginning January 1, 2025, and ending on March 31, 2025. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (4%) plus three per-

centage points (3%) for a total of seven percent (7%) for both corporations and non-corporations. For overpayments made by non-corporations, the rate is the Federal short-term rate (4%) plus three percentage points (3%) for a total of seven percent (7%). For corporate overpayments, the rate is the Federal short-term rate (4%) plus two percentage points (2%) for a total of six percent (6%). These interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties have decreased from the previous quarter. These interest rates are subject to change for the calendar quarter beginning April 1, 2025, and ending on June 30, 2025.

For the convenience of the importing public and U.S. Customs and Border Protection personnel, the following list of IRS interest rates used, covering the period from 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 overpay-ments (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	.....
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	.....

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpay-ments (eff. 1–1–99) (percent)
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
010103	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	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	033116	3	3	2
040116	033118	4	4	3
040118	123118	5	5	4
010119	063019	6	6	5
070119	063020	5	5	4
070120	033122	3	3	2
040122	063022	4	4	3
070122	093022	5	5	4
100122	123122	6	6	5

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpay-ments (eff. 1–1–99) (percent)
010123	093023	7	7	6
100123	123124	8	7	8
010125	033125	7	7	6

CRINLEY S. HOOVER,
Acting Chief Financial Officer,
U.S. Customs and Border Protection.

IMPLEMENTATION OF ADDITIONAL DUTIES ON PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA PURSUANT TO THE PRESIDENT'S FEBRUARY 1, 2025 EXECUTIVE ORDER IMPOSING DUTIES TO ADDRESS THE SYNTHETIC OPIOID SUPPLY CHAIN IN THE PEOPLE'S REPUBLIC OF CHINA

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

ACTION: Notice.

SUMMARY: In order to effectuate the President's February 1, 2025 Executive Order "Imposing Duties to Address the Synthetic Opioid Supply Chain in the People's Republic of China," which imposes specified rates of duty on imports of articles that are products of the People's Republic of China (PRC or China), the Secretary of Homeland Security has determined that appropriate action is needed to modify the Harmonized Tariff Schedule of the United States (HTSUS) as set out in the annex to this notice.

DATES: The duties set out in the annex to this document are effective with respect to products of the PRC that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on February 4, 2025.

FOR FURTHER INFORMATION CONTACT: Brandon Lord, Executive Director, Trade Policy and Programs, Office of Trade, U.S. Customs and Border Protection, (202) 325–6432 or by email at *traderemedy@cbp.dhs.gov*. Susan Thomas, Executive Director, Cargo and Conveyance Security, Office of Field Operations, U.S. Customs and Border Protection, (202) 344–3401 or by email at *traderemedy@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION: On January 20, 2025, the President declared a national emergency with respect to the grave threat to the United States posed by the influx of illegal aliens and drugs into the United States in Proclamation 10886 (Declaring a National Emergency at the Southern Border). *See* National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA).

On February 1, 2025, the President expanded the scope of the national emergency declared in that proclamation to cover the failure of the People's Republic of China (PRC or China) government to arrest, seize, detain, or otherwise intercept, chemical precursor suppliers, money launderers, other transnational criminal organizations, criminals at large, and drugs. In addition, the President determined that this failure to act on the part of the PRC constitutes an unusual

and extraordinary threat, which has its source in substantial part outside the United States, to the national security, foreign policy, and economy of the United States.

To address this threat, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the NEA, section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), and 3 U.S.C. 301, the President imposed ad valorem tariffs on all imports that are products of the PRC, excluding those encompassed by 50 U.S.C. 1702(b). Specifically, the February 1, 2025 Executive Order adjusted duties on imported products of the PRC, by imposing, consistent with law, an additional 10 percent ad valorem rate of duty as described in the annex to this notice.

The Executive Order directed the Secretary of Homeland Security, to determine and implement the necessary modifications to the Harmonized Tariff Schedule of the United States (HTSUS), consistent with law, in order to effectuate the Executive Order.

In order to implement the rates of duty imposed by the Executive Order, effective on 12:01 a.m. eastern standard time on February 4, 2025, subchapter III of chapter 99 of the HTSUS is modified by the annex to this notice.

Articles that are the products of China, which hereinafter will include products of Hong Kong in accordance with Executive Order 13936 on Hong Kong Normalization (*See* 85 FR 43413 (July 17, 2020)), excluding those encompassed by 50 U.S.C. 1702(b), that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on February 4, 2025, will be subject to the additional ad valorem rate of duty provided for in new HTSUS heading 9903.01.20, except that goods entered for consumption, or withdrawn from warehouse for consumption, after 12:01 a.m. eastern standard time on February 4, 2025, that were loaded onto a vessel at the port of loading, or in transit on the final mode of transport prior to entry into the United States, before 12:01 a.m. eastern time on February 1, 2025, shall not be subject to such additional duty only if the importer certifies to CBP that the goods so qualify by declaring new HTSUS heading 9903.01.23 as described in the annex to this notice. The exception for goods that were in transit before February 1, 2025 is time limited, to prevent importers from abusing this provision when it is no longer realistic due to the passage of time, as provided in new HTSUS heading 9903.01.23 that is described the annex to this notice, and will only apply to goods entered for consumption, or withdrawn from ware-

house for consumption, on or after 12:01 a.m. eastern standard time on February 4, 2025, and before 12:01 a.m. eastern standard time on March 7, 2025.

Imported products of China that are encompassed by 50 U.S.C. 1702(b) will not be subject to the additional ad valorem duty provided for in new HTSUS heading 9903.01.20, but such qualifying products, other than products for personal use included in accompanied baggage of persons arriving in the United States, must be declared and entered under new HTSUS heading 9903.01.21 or new HTSUS heading 9903.01.22. Specifically, new HTSUS heading 9903.01.21 covers products encompassed by 50 U.S.C. 1702(b)(2) and new HTSUS heading 9903.01.22 covers products encompassed by 50 U.S.C. 1702(b)(3).[1]

The additional ad valorem duty provided for in new HTSUS heading 9903.01.20 applies in addition to all other applicable duties, taxes, fees, exactions, and charges. Further, the February 1, 2025 Executive Order clarifies that duty-free *de minimis* treatment under 19 U.S.C. 1321 shall not be available for the articles of China subject to the additional 10 percent ad valorem rate of duty. Accordingly, articles covered by heading 9903.01.20 shall not be eligible for the administrative exemption from duty and certain taxes at 19 U.S.C. 1321(a)(2)(C)— the so-called "de minimis" exemption.

In order to protect the revenue of the United States and effectively carry out the Executive Order's instruction to exclude such articles from eligibility for the *de minimis* exemption, including with respect to shipments arriving by international mail from China, CBP has determined that, in accordance with 19 CFR 145.12(a)(1), it is necessary to require formal entry for all mail shipments from China. Without regard to their value, no mail shipments from China will be cleared or released by CBP unless and until formal entry is properly filed.

Products of China that are eligible for temporary duty exemptions or reductions under subchapter II to chapter 99 shall be subject to the additional ad valorem rate of duty imposed by heading 9903.01.20.

The additional duties imposed by heading 9903.01.20 shall not apply to goods for which entry is properly claimed under a provision of chapter 98 of the tariff schedule pursuant to applicable regulations of U.S. Customs and Border Protection ("CBP"), and whenever CBP

[1] 50 U.S.C. 1702(b)(1) covers "postal, telegraphic, telephonic, or other personal communication[s], which do[ ] not involve a transfer of anything of value," and hence does not encompass any imported articles of merchandise. 50 U.S.C. 1702(b)(4) covers "transactions ordinarily incident to travel to or from any country, including [1] importation of accompanied baggage for personal use, [2] maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and [3] arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages," only the first of which encompasses imported articles of merchandise.

agrees that entry under such a provision is appropriate, except for goods entered under heading 9802.00.80; and subheadings 9802.00.40, 9802.00.50, and 9802.00.60. For subheadings 9802.00.40, 9802.00.50, and 9802.00.60, the additional duties apply to the value of repairs, alterations, or processing performed (in the PRC), as described in the applicable subheading. For heading 9802.00.80, the additional duties apply to the value of the article assembled abroad (in the PRC), less the cost or value of such products of the United States, as described.

Articles that are products of the PRC, excluding those encompassed by 50 U.S.C. 1702(b), except those that are eligible for admission to a foreign trade zone under "domestic status" as defined in 19 CFR 146.43, and are admitted into a United States foreign trade zone on or after 12:01 a.m. eastern standard time on February 4, 2025, must be admitted as "privileged foreign status" as defined in 19 CFR 146.41. Such articles will be subject, upon entry for consumption, to the duties imposed by the Executive Order and the rates of duty related to the classification under the applicable HTSUS subheading in effect at the time of admission into the United States foreign trade zone.

No drawback shall be available with respect to the additional duties imposed pursuant to the Executive Order.

KRISTI NOEM,
Secretary.

Annex

To Modify Chapter 99 of the Harmonized Tariff Schedule of the United States

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on February 4, 2025, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. by inserting the following new heading 9903.01.20 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled "Heading/ Subheading", "Article Description", "Rates of Duty 1—General", "Rates of Duty 1—Special" and "Rates of Duty 2", respectively:

Heading/ subheading	Article description	Rates of duty		
		1		2
		General	Special	
"9903.01.20	Except for products described in headings 9903.01.21, 9903.01.22, or 9903.01.23 articles the product of China and Hong Kong, as provided for in U.S. note 2(s) to this subchapter.	The duty provided in the applicable subheading + 10%.	The duty provided in the applicable subheading + 10%.	No change".

2. by inserting the following new heading 9903.01.21 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled "Heading/ Subheading", "Article Description", "Rates of Duty 1—General", "Rates of Duty 1—Special" and "Rates of Duty 2", respectively:

Heading/ subheading	Article description	Rates of duty		
		1		2
		General	Special	
"9903.01.21	Articles the product of China and Hong Kong that are donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, as provided for in U.S. note 2(t) to this subchapter.	The duty provided in the applicable subheading.	The duty provided in the applicable subheading.	No change".

3. by inserting the following new heading 9903.01.22 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled "Heading/ Subheading", "Article Description", "Rates of Duty 1—General", "Rates of Duty 1—Special" and "Rates of Duty 2", respectively:

Heading/ subheading	Article description	Rates of duty		
		1		2
		General	Special	
"9903.01.22	Articles the product of China and Hong Kong that are informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.	The duty provided in the applicable subheading.	The duty provided in the applicable subheading.	No change".

4. by inserting the following new heading 9903.01.23 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled "Heading/ Subheading", "Article Description", "Rates of Duty 1—General", "Rates of Duty 1—Special" and "Rates of Duty 2", respectively:

Heading/ subheading	Article description	Rates of duty		
		1		2
		General	Special	
"9903.01.23	Except for products described in headings 9903.01.21 and 9903.01.22, and other than products for personal use included in accompanied baggage of persons arriving in the United States, articles the product of China and Hong Kong that: (1) were loaded onto a vessel at the port of loading, or in transit on the final mode of transport prior to entry into the United States, before 12:01 a.m. eastern standard time on February 1, 2025; and (2) are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on February 4, 2025, and before 12:01 a.m. eastern standard time on March 7, 2025.	The duty provided in the applicable subheading.	The duty provided in the applicable subheading.	No change".

5. by inserting the following new U.S. note 2(s) to subchapter III of chapter 99 of the HTSUS in numerical sequence:

"2. (s) For the purposes of heading 9903.01.20, products of China and Hong Kong, other than products described in heading 9903.01.21, heading 9903.01.22, heading 9903.01.23, and other than products for personal use included in accompanied baggage of persons arriving in the United States, shall be subject to an additional 10% *ad valorem* rate of duty. Notwithstanding U.S. note 1 to this subchapter, all products of China and Hong Kong that are subject to the additional *ad valorem* rate of duty imposed by heading 9903.01.20 shall also be subject to the general rates of duty imposed on

products of China and Hong Kong entered under subheadings in chapters 1 to 97 of the tariff schedule. Products of China and Hong Kong that are eligible for temporary duty exemptions or reductions under subchapter II to chapter 99 shall be subject to the additional *ad valorem* rate of duty imposed by heading 9903.01.20.

The additional duties imposed by heading 9903.01.20 shall not apply to goods for which entry is properly claimed under a provision of chapter 98 of the tariff schedule pursuant to applicable regulations of U.S. Customs and Border Protection ("CBP"), and whenever CBP agrees that entry under such a provision is appropriate, except for goods entered under heading 9802.00.80; and subheadings 9802.00.40, 9802.00.50, and 9802.00.60. For subheadings 9802.00.40, 9802.00.50, and 9802.00.60, the additional duties apply to the value of repairs, alterations, or processing performed (in China and Hong Kong), as described in the applicable subheading. For heading 9802.00.80, the additional duties apply to the value of the article assembled abroad (in China and Hong Kong), less the cost or value of such products of the United States, as described.

Products of China and Hong Kong that are provided for in heading 9903.01.20 shall continue to be subject to antidumping, countervailing, or other duties, taxes, fees, exactions and charges that apply to such products, as well as to the additional *ad valorem* rate of duty imposed by heading 9903.01.20.

Products of China and Hong Kong that are provided for in heading 9903.01.20 shall not be eligible for the administrative exemption from duty and certain taxes at 19 U.S.C. 1321(a)(2)(C)—the so-called "de minimis" exemption.

(t) Heading 9903.01.21 covers only products of China and Hong Kong, that are donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his ability to deal with any national emergency declared under section 1701 of title 19 of the U.S. Code, (B) are in response to coercion against the proposed recipient or donor, or (C) would endanger Armed Forces of the United States which are engaged in hostilities or are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances."

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